

dicial District of Texas, and to provide for the organization of a Court of Civil Appeals within the Eighth Supreme Judicial District of Texas, and repealing all laws and parts of laws in conflict therewith and declaring an emergency," for the purpose of placing Culberson county within the Eighth Supreme Judicial District of Texas and making said Culberson county a part of said district and to repeal all laws in conflict therewith, and declaring an emergency."

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass, and be not printed.

HUDSPETH, Chairman.

Committee Room,
Austin, Texas, January 28, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 5, A bill to be entitled "An Act to provide for the suspension of sentence in certain cases of conviction of felony for first offenses, upon the recommendation of the jury, and for submission of the issue to the jury by the court, and to provide the duration of the suspension of sentence and for pronouncing sentence after suspension thereof in case of final conviction of the defendant of any other felony, cumulating punishment in such cases, and for granting a new trial after suspension and dismissal of the case in certain events after suspension, and to repeal all laws and parts of laws in conflict herewith, and providing for an emergency,"

And find same correctly engrossed.

TERRELL, Acting Chairman.

TWELFTH DAY.

Senate Chamber,
Austin, Texas,

Wednesday, January 29, 1913.

The Senate met, pursuant to adjournment, and was called to order by Lieutenant Governor Will H. Mayes.

Roll call, a quorum present, the following Senators answering to their names:

Astin.	Conner.
Bailey.	Cowell.
Carter.	Darwin.
Collins.	Gibson.

Greer.	Taylor.
Hudspeth.	Terrell.
Johnson.	Townsend.
Kauffman.	Vaughan.
Lattimore.	Warren.
McGregor.	Watson.
McNealus.	Weinert.
Murray.	Westbrook.
Nugent.	Wiley.
Paulus.	Villacy.
Real.	

Absent.

Morrow.

Absent—Excused.

Brelsford.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Terrell, the same was dispensed with.

(See Appendix for petitions and memorials and standing committee reports.)

EXCUSED.

On account of sickness:

Senator Morrow, indefinitely, on motion of Senator Conner.

On account of Investigating Committee work:

Senators McGregor, Nugent, Morrow, Hudspeth, Gibson, Lattimore and Townsend.

SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senator Terrell:

Resolved, That all Senators making nominating or seconding speeches in the election of a United States Senator on January 28, be requested to file their remarks with the Journal clerk of the Senate, in order that same may be printed in the Journal.

The resolution was read and adopted.

SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senator McNealus:

Resolved, That the Superintendent of Public Buildings and Grounds be instructed to provide more heat through the steam radiators of the Senate Chamber, as present conditions are so un-

comfortable as to amount to an affliction.

McNEALUS.
WARREN.
GREER.
TOWNSEND.
VAUGHAN.
McGREGOR.
MURRAY.
WEINERT.
COLLINS.
PAULUS.
ASTIN.

The resolution was read and adopted.

SENATE BILL NO. 58 PRINTED IN FULL.

Senator Hudspeth moved that Senate bill No. 58 be printed in full in the Journal.

The motion prevailed.

(See Appendix for bill in full.)

BILLS RECOMMENDED.

Senator Warren moved that Senate bills Nos. 152 and 165 be withdrawn from the Committee on Public Health and referred to Committee on State Asylums.

The motion prevailed.

BILLS AND RESOLUTIONS.

By Senator Johnson:

Senate bill No. 186, A bill to be entitled "An Act to increase the civil jurisdiction of the county court of Armstrong county."

Read first time and referred to Committee on Judicial Districts.

By Senators Nugent and Cowell:

Senate bill No. 187, A bill to be entitled "An Act to provide for the establishment and maintenance of a State Training School and Home for feeble-minded of Texas, to locate same, and provide for its control and management, and for a Board of Advisors to determine conditions of admission to said Training School and Home and to make appropriations for its establishment and maintenance."

Read first time and referred to Committee on State Asylums.

By Senator Astin:

Senate bill No. 188, A bill to be entitled "An Act to authorize the sterilization of a certain class of criminals, lunatics and epileptics and syphilitics and persons with a hereditary tendency to congenital diseases of mind or body, who are now or may hereafter be confined to any eleemosynary or penal institution of the State of Texas, to the end that procreation by such classes may be prevented; and to provide for the appointment of a board or boards whose duty it shall be to decide in what cases sterilization is advisable for the benefit of the persons and society and to prescribe regulations and means by which said operation of sterilization may be performed and to provide for the payment of any expense incurred by any of the provisions of this act, and declaring an emergency."

Read first time and referred to Committee on Public Health.

By Senator McGregor:

Senate bill No. 189, A bill to be entitled "An Act authorizing the establishment of county hospitals and dispensaries, providing for elections for bond issues and the issuance of bonds for the cost of erection of same and providing revenue for maintaining and managing same, and declaring an emergency."

Read first time and referred to Committee on Public Health.

By Senator Hudspeth:

Senate bill No. 190, A bill to be entitled "An Act to create the Seventy-fourth Judicial District and to prescribe the time and fix the terms of the holding of the terms of court in and for the Seventy-fourth Judicial District of Texas, and to conform all writs and process from such courts to such changes, and to provide for the appointment of a judge and district attorney in said district; and to make all process issued or served before this act goes into effect including recognizances and bonds, returnable to the terms of the district court as herein fixed, and to repeal all laws in conflict herewith."

Read first time and referred to Committee on Judicial Districts.

By Senator Willacy:

Senate bill No. 191, A bill to be entitled "An Act creating the Department of Seed Selection and Improvement as a part of the Penitentiary System of the State of Texas; providing for the appointment by the Prison Commissioners of a Superintendent of said Department

of Seed Selection and Improvement; prescribing the duties of said superintendent; providing regulations for said department and for planting, cultivating and improvement of cotton; providing for seed selection and the sale of selected improved cotton seed for the benefit of the cotton growers of this State; conferring certain authority upon the said superintendent, and declaring an emergency."

Read first time and referred to Committee on State Penitentiaries.

By Senator McNealus:

Senate bill No. 192, A bill to be entitled "An Act to regulate the trial of civil suits for damages for libel; to define privileged matter, and repealing all laws in conflict herewith, and declaring an emergency."

Read first time and referred to Judiciary Committee No. 1.

By Senator Westbrook:

Senate bill No. 193, A bill to be entitled "An Act to limit the amount that may be spent by candidates for nomination to any public office; to provide that no candidate shall expend more than 25 per cent of the first year's salary of the office for which he is a candidate, in his campaign for the nomination to such office; to define what shall be a payment, expenditure, or contribution by a candidate; to define what shall be deemed money or thing of value under this act, and to require officers with whom the expense accounts of candidates are required by law to be filed to report to the proper official the failure of any candidate to file such report as required by law; to fix the penalty for the violation of any of the provisions of this act and to determine what court shall have jurisdiction of offenses under this act, and declaring an emergency."

Read first time and referred to Judiciary Committee No. 2.

SIMPLE RESOLUTION.

By Senator Lattimore:

Resolved, That the Senate accept the invitation to attend the entertainment by the pupils of the Blind Institute at 8 p. m., this day, and that the Senators be requested to be present at same.

The resolution was read and adopted.

SIMPLE RESOLUTION.

By Senator Johnson:

Resolved, That the Committee on Congressional Districts be increased by adding three members thereto and that Senators Collins, McNealus and Townsend be added to said committee.

The resolution was read and adopted.

RESIGNATION OF SPECIAL COMMITTEEMAN.

Hon. Will H. Mayes, President of the Senate:

Owing to private demands which may soon call upon me and which may compel me to be absent, and also owing to the labors which will at once be entailed upon me as a member of the Finance Committee, I therefore, hereby tender my formal resignation as a member of the special committee to visit the coast on the Fish and Oyster inquiry, and ask that same be at once accepted, so that some other Senator may be appointed in my place.

WARREN.

The above resignation of Senator Warren was read and accepted. The Chair announced the appointment of Senator Gibson on the Special Committee.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, January 29, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

House bill No. 79, A bill to be entitled "An Act incorporating and creating the Murphy Independent School District in Collin county, Texas, for free school purposes only, defining its boundaries, and providing for the election of a board of trustees for the raising of revenue by taxation, issuing of bonds for raising money for building purposes, and maintaining public free schools therein, vesting the property included within this act in said Murphy Independent School District, and vesting said district and the board of trustees thereof, with all the rights, powers, privileges, and duties conferred and imposed by general laws upon independent school districts, and the board of trustees

thereof, formed by the incorporation of towns and villages for free school purposes only under the general law, declaring valid a maintenance tax heretofore voted, and declaring an emergency."

House bill No. 125, A bill to be entitled "An Act to amend Section 11 of the special road laws for Erath county, Texas, relating to the compensation of the county commissioners of said county as ex-officio road commissioners."

House bill No. 173, A bill to be entitled "An Act to create a special road system for Shelby county, Texas, and making the county commissioners ex-officio road commissioners and overseers, providing for compensation for superintending and overseeing; providing for compensation for agents or deputies; providing for number of days' work required for each hand; providing for condemnation of lands and other property for road and bridge purposes; providing for working county convicts on the public roads and supplies therefor and for recapture of escaped county convicts and punishment; commissioners to care for county road tools; providing for payment of three dollars and exempting from road duty for the year; providing for delinquent or insolvent poll tax payers shall be subject to road duty permitting substitution, making it a misdemeanor for every person subject to road duty under this act to fail to comply and punishment therefor; commissioners may contract, may employ a civil engineer and requiring railroad companies to ditch and drain their right of way and giving the commissioner the right to do so upon the railroad's failure after giving time; providing donations from private citizens or corporations and classification of all public roads requiring officials connected with public roads to make reports, division of road and bridge funds into four equal parts, allowing exemption certificates; requiring tax collector to furnish lists, making this act cumulative of the general laws and special laws now enforced, not in conflict herewith, to repeal all laws in conflict with this act, and declaring an emergency."

House bill No. 225, A bill to be entitled "An Act to appropriate the sum of \$100,000, or so much thereof as may be necessary, to provide funds for the operation of the Penitentiary System, and declaring an emergency."

House bill No. 12, A bill to be entitled "An Act incorporating and creating the Sabinal independent school district in Uvalde county, Texas, for free school purposes, only, defining its boundaries,

and providing for the election of a board of trustees, for the raising of revenue by taxation, issuing of bonds for raising money for building purposes and maintaining public free schools therein, vesting the property of the Sabinal common school district No. 5 in said Sabinal independent school district, and vesting said district and the board of trustees thereof with all the rights, powers, privileges and duties conferred and imposed by general laws upon independent school districts, and the board of trustees thereof formed by the incorporation of towns and villages for free school purposes only under the general law; declaring valid all issues of bonds heretofore made; declaring valid a maintenance tax heretofore voted, and declaring an emergency."

House bill No. 96, A bill to be entitled "An Act creating an independent school district to be known as Calallen Independent School District and to provide for the creation of a board of trustees thereof and authorizing the board of trustees to levy, assess and collect special taxes, and conferring upon the board of trustees plenary powers and authority to issue bonds for the purpose of purchasing school sites and erecting, furnishing and equipping school buildings within the same, and to levy a tax therefor, and to pay current expenses for the maintenance and support of said schools, and further prescribing the duty and authority of said board and repealing all laws in conflict herewith, and declaring an emergency."

Respectfully,

W. R. LONG,

Chief Clerk, House of Representatives.

HOUSE BILLS READ AND REFERRED.

The Chair, Lieutenant Governor Mayes, had referred, after their captions had been read, the following House bills:

House bill No. 79, referred to Committee on Educational Affairs.

House bill No. 125, referred to Committee on Roads, Bridges and Ferries.

House bill No. 225, referred to Committee on State Penitentiaries.

House bill No. 173, referred to Committee on Roads, Bridges and Ferries.

House bill No. 12, referred to Committee on Educational Affairs.

House bill No. 96, referred to Committee on Educational Affairs.

Morning call concluded.

SENATE BILL NO. 70—MADE SPECIAL ORDER.

Senator Townsend asked unanimous consent to call up Senate bill No. 70, and moved to have same made a special order for next Tuesday morning after the conclusion of the morning call.

Senator Terrell asked the Chair for a ruling on whether or not if Senate bill No. 70 was set for a special order for Tuesday morning, would that take precedence over a pending special order.

The Chair ruled that a special order pending at adjournment has precedence over another special order set for the time at which the pending special order would again be the order of business. If a special order is not reached, or considered, at the time fixed, it does not lose its place as a special order, and where two or more special orders are set for the same time, they have precedence in the order in which they were set.

SPECIAL ORDER POSTPONED.

The special order and pending business for this hour was the simple resolution by Senator Lattimore, providing for a committee to make certain investigations of the Penitentiary System.

Senator Lattimore moved that further action on same be postponed until February 6, and be made a special order immediately after the conclusion of the morning call.

The motion prevailed.

SENATE BILL NO. 7.

Senate bill No. 7 was a special order for this hour and Senator Johnson moved that, by agreement, same be postponed for this hour.

(Senator Collins in the chair.)

SENATE BILL NO. 23.

The Chair laid before the Senate, on second reading,

Senate bill No. 23, A bill to be entitled "An Act to amend the Revised Penal Code of the State of Texas of 1911, being Chapter 8, Title 11, by adding thereto Article 622a, making it a misdemeanor for any minor to enter or remain in any saloon or place where intoxicating liquors are sold or to purchase any intoxicating liquors, and fixing the punishment therefor and declaring an emergency."

Action recurred on the pending amendment, and the substitute therefor, and the Chair stated that the committee report, with amendment, had not been acted on, and had said report read.

(Lieutenant Governor Mayes in the chair.)

SECOND HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, January 29, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

House Concurrent Resolution No. 7, Inviting Hon. Morris Sheppard to address the joint session of House of Representatives and the Senate in Hall of the House of Representatives Wednesday, January 29, 1913.

Respectfully,

W. R. LONG,

Chief Clerk, House of Representatives.

HOUSE CONCURRENT RESOLUTION NO. 7.

The Chair laid before the Senate and had read, House Concurrent Resolution No. 7, inviting Hon. Morris Sheppard to address a joint session of the Legislature today.

The resolution was adopted, and the Chair appointed Senators Vaughan, Townsend and Lattimore as a committee on part of the Senate, as provided by the resolution.

SENATE BILL NO. 23.

Action then recurred on the pending business, Senate bill No. 23, the question being on the committee report, with amendment.

The committee report provided that the bill "do pass, with an amendment," and pending discussion of same, a division of the question was called for.

Action recurred on the committee amendment, and the same was adopted.

Action then recurred on the committee report, and the Senate refused to adopt same by the following vote:

Yeas—13.

Astin.
Bailey.
Hudspeth.
Kauffman.

Murray.
Nugent.
Paulus.
Real.

Taylor.
Terrell.
Watson.

Weinert.
Willacy.

Nays—15.

Collins.
Conner.
Cowell.
Darwin.
Gibson.
Greer.
Johnson.
Lattimore.

McGregor.
McNealus.
Townsend.
Vaughan.
Warren.
Westbrook.
Wiley.

Absent.

Carter.

Absent—Excused.

Brelsford.

Morrow.

SENATE BILL NO. 29.

Senator Terrell moved to suspend the regular order of business, Senate bill No. 36, for the purpose of taking up Senate bill No. 29, out of its order.

Pending.

IN JOINT SESSION.

Here the Chair stated that the hour, 12 o'clock, noon, had arrived, which time had been previously designated for the Senate to sit in joint session with the House of Representatives for the purpose of declaring the result of the vote for United States Senator and to hear the address of Hon. Morris Sheppard. The Senate repaired to the House in order.

COMPARING THE VOTE FOR UNITED STATES SENATOR.

(In Joint Session.)

The hour of 12 o'clock, meridian, fixed by concurrent action of the two houses for the Senate and House of Representatives to meet in joint session for the purpose of declaring the result of the votes cast on yesterday in each house for United States Senator, having arrived, the Honorable Senate was announced at the bar of the House, and were, by direction of the Speaker, admitted.

Accompanied by the Sergeant-at-Arms of the Senate, M. F. Hornbuckle, the Secretary of the Senate, W. V. Hower-ton, and the Journal Clerk of the Senate, R. M. Gilmore, the Honorable Senators advanced into the hall, and, by direction of the Speaker, occupied seats already prepared for them along the aisle.

The President of the Senate, Hon. Will H. Mayes, by invitation of the Speaker, occupied a seat on the Speaker's stand to the left of the Speaker.

The President of the Senate directed the Secretary of the Senate to call the roll of the Senate.

The roll of the Senate was called, and the following Senators answered to their names:

Astin.	Murray.
Bailey.	Nugent.
Carter.	Paulus.
Collins.	Real.
Conner.	Taylor.
Cowell.	Terrell.
Darwin.	Townsend.
Gibson.	Vaughan.
Greer.	Warren.
Hudspeth.	Watson.
Johnson.	Weinert.
Kauffman.	Westbrook.
Lattimore.	Wiley.
McGregor.	Willacy.
McNealus.	

Absent—Excused.

Brelsford.

Morrow.

Total number of Senators present, 29.

The President of the Senate announced a quorum of the Senate present.

Hon. Chester H. Terrell, Speaker of the House of Representatives, then directed the Clerk to call the roll of the House.

The roll was called, and the following members answered to their names:

Allison.	Cox of Delta.
Bagby.	Cox of Ellis.
Baker.	Craven.
Barrett of Jones.	Crisp.
Barrett of Titus.	Cunningham.
Bartley.	Davis.
Bierschwale.	Dickson.
Boehmer.	Diffie.
Broughton.	Dodson.
Brown.	Dove.
Bruce.	Dunn.
Buchanan.	Fields.
Burges.	Flournoy.
Burmeister.	Foster.
Burns.	Fountain.
Butler.	Fuller.
Byrne.	Furrh.
Calvin.	Gates.
Campbell.	Gentry.
Chrestman.	Glasscock.
Coffey.	Greenwood.
Collins.	Griggs.
Colquitt.	Grindstaff.
Cooper.	Hagins.
Cope.	Haney.

Harp.	Ratliff.
Harris.	Reedy.
Haxthausen.	Reeves.
Heilig.	Rickerson.
Henry of Bowie.	Ridgell.
Henry of Wichita.	Ritchie.
Herder.	Roach.
Hill.	Robbins.
Hornby.	Robertson.
Householder.	Rogers.
Hughes.	Rowell.
Humphrey.	Russell.
Hunt.	Savage.
Hunter.	Schwegman.
Kelley.	Simpson.
Killingsworth.	Smith.
King.	Spann.
Kirby.	Spradley.
Lane.	Stephens of Upshur.
Lewelling.	Stevens of Liberty.
Long.	Stone.
Macgill.	Sullivan.
McAskill.	Tarver.
McDaniel.	Taylor.
McKamy.	Tillotson.
McNeal.	Tyson.
Mangum.	Ussery.
Mendell.	Vannoy.
Mills.	Vickers.
Morris of Coryell.	Wagstaff.
Morris of Victoria.	Wahrmund.
Mulcahy.	Walker.
Murray.	Watson of Hays.
Nabours.	Watson of Mills.
Neeley.	Webb.
Olander.	Williams
Oliver.	of Hopkins.
Paddock.	Williams
Parker.	of McLennan.
Parks.	Woods of Fisher.
Patton.	Woods of Navarro.
Pcwell.	Wortham.
Raiden.	Yarbrough.

Absent.

Goodner.	Owsley.
Hall.	Ross.
Jordan.	Templeton.
Kennedy.	

Total number of Representatives present, 135.

The Speaker announced a quorum of the House present.

The Speaker then announced that, in accordance with law, and a concurrent resolution duly adopted by both houses, the two houses of the Thirty-third Legislature were now in joint session for the purpose of comparing the proceedings had in separate session on yesterday touching the election of a United States Senator for the term ending on March 4, 1913, and for the term beginning March 4, 1913.

The President of the Senate directed the Secretary of the Senate to read from the Senate Journal of yesterday the proceedings had in the Senate on yesterday in the election of a United States Senator for the term ending March 4, 1913.

The Secretary then read the following from the Senate Journal of yesterday:

(Extract from Senate Journal of Tuesday, January 28, 1913.)

The Chair, Lieutenant Governor Mayes, announced the hour had arrived, 11 o'clock a. m., set apart by concurrent action of the two houses, for the Senate to nominate and ballot for United States Senator for the unexpired term of Senator Bailey, ending March 4, 1913, and for the election of a United States Senator for the regular term beginning March 4, 1913.

The Chair then declared nominations in order for United States Senator, to fill the unexpired term of Senator Bailey, term ending March 4, 1913, were in order.

Senator Vaughan nominated Hon. Morris Sheppard.

Senator Darwin seconded Mr. Sheppard's nomination.

Senator Bailey nominated Hon. R. M. Johnston.

Senator Warren seconded the nomination of Mr. Sheppard.

Senator Watson seconded the nomination of Mr. Johnston.

Senator Townsend seconded the nomination of Mr. Sheppard.

Senator Lattimore seconded the nomination of Mr. Sheppard.

Senator Hudspeth seconded the nomination of Mr. Johnston.

Senator McNealus seconded the nomination of Mr. Johnston.

Senator Johnson seconded the nomination of Mr. Sheppard.

Senator Collins seconded the nomination of Mr. Sheppard.

Senator Astin seconded the nomination of Mr. Johnston.

Senator Vaughan closed the nomination of Mr. Sheppard with a short rejoinder.

There being no further nominations, the Chair declared nominations closed, and directed the Secretary to call the roll.

The roll was called and each Senator, rising from his seat as his name was called, announced his vote. Following is the vote:

For Hon. Morris Sheppard:

Carter.

Collins.

Conner.	Morrow.
Cowell.	Taylor.
Darwin.	Townsend.
Gibson.	Vaughan.
Greer.	Warren.
Johnson.	Westbrook.
Kauffman.	Wiley.
Lattimore.	

For Hon. Morris Sheppard, 17 Senators announced their votes.

For Hon. R. M. Johnston:

Astin.	Paulus.
Bailey.	Real.
McGregor.	Terrell.
McNealus.	Watson.
Murray.	Weinert.
Nugent.	Willacy.

For Hon. R. M. Johnston, 12 Senators announced their votes.

PAIRED.

When Senator Hudspeth's name was called, he stated that he was paired with Senator Brelsford, who was absent, and that he (Hudspeth) would vote for Mr. Johnston, and Senator Brelsford would vote for Mr. Sheppard.

The Speaker then directed the Clerk to read from the House Journal of yesterday the proceedings had in the House on yesterday in the election of a United States Senator, for the term ending March 4, 1913.

The Clerk then read the following from the House Journal of yesterday:

(Extract from the House Journal of Tuesday, January 28, 1913.)

The Speaker announced that the hour of 11 o'clock a. m., set apart by concurrent resolution of the two houses for the election of United States Senator for the term ending March 4, 1913, had arrived, and stated that nominations were in order.

Hon. Louie H. Henry of Bowie county nominated Hon. Morris Sheppard of Bowie county.

Hon. John H. Kirby of Harris county nominated Hon. R. M. Johnston of Harris county.

Hon. C. D. Spann of Somervell county seconded the nomination of Hon. Morris Sheppard.

Hon. Richard F. Burges of El Paso county, seconded the nomination of Hon. R. M. Johnston.

Hon. E. A. McDaniel of Coleman county seconded the nomination of Hon. Morris Sheppard.

Hon. Louis J. Wortham of Tarrant county seconded the nomination of Hon. R. M. Johnston.

Hon. A. D. Rogers of Wise county seconded the nomination of Hon. Morris Sheppard.

There being no further nominations the Speaker declared nominations closed and directed the Clerk to call the roll.

The roll was called and, each member rising from his seat as his name was called, announced his choice.

The following members voted for the Hon. Morris Sheppard:

Allison.	McKamy.
Baker.	McNeal.
Barrett of Jones.	Mangum.
Barrett of Titus.	Mills.
Bartley.	Morris of Coryell.
Broughton.	Nabors.
Burns.	Olander.
Butler.	Oliver.
Chrestman.	Owsley.
Coffey.	Patton.
Colquitt.	Raiden.
Cope.	Ratliff.
Cox of Delta.	Reedy.
Cox of Ellis.	Reeves.
Craven.	Rickerson.
Cunningham.	Ridgell.
Davis.	Ritchie.
Dickson.	Robbins.
Diffie.	Rogers.
Dodson.	Ross.
Dove.	Kowell.
Fields.	Russell.
Foster.	Simpson.
Fuller.	Spann.
Furrh.	Stephens of Upshur.
Gentry.	Sullivan.
Griggs.	Tarver.
Grindstaff.	Taylor.
Goodner.	Templeton.
Hagins.	Tyson.
Haney.	Ussery.
Harp.	Vannoy.
Henry of Bowie.	Vickers.
Henry of Wichita.	Wagstaff.
Hornby.	Walker.
Hughes.	Watson of Mills.
Humphrey.	Webb.
Hunt.	Williams
Hunter.	of Hopkins.
Jordan.	Williams
Kelley.	of McLennan.
Lewelling.	Woods of Fisher.
Long.	Woods of Navarro.
Macgill.	Yarbrough.
McDaniel.	

Total number of votes cast for Hon. Morris Sheppard, 87.

The following members voted for Hon. R. M. Johnston:

Bagby.	Boehmer.
Rierschwale.	Brown.

Bruce.	King.
Buchanan.	Kirby.
Burges.	Lane.
Burneister.	McAskill.
Byrne.	Mendell.
Calvin.	Morris of Victoria.
Campbell.	Mulcahy.
Cellins.	Murray.
Cooper.	Neeley.
Crisp.	Paddock.
Dunn.	Parker.
Flournoy.	Parks.
Fountain.	Powell.
Gates.	Roach.
Glasscock.	Robertson.
Greenwood.	Savage.
Hall.	Schwegman.
Harris.	Smith.
Haxthausen.	Stevens of Liberty.
Heilig.	Stone.
Herder.	Tillotson.
Hill.	Wahrmund.
Householder.	Watson of Hays.
Kennedy.	Wortham.
Killingsworth.	

Total number of votes cast for Hon. R. M. Johnston, 54.

The following member voted for Hon. Choice B. Randell:
Spradley.

Total number of votes cast for Hon. Choice B. Randell, 1.

The Speaker announced that Hon. Morris Sheppard had received 87 votes, that Hon. R. M. Johnston had received 54 votes, that Hon. Choice B. Randell had received 1 vote, and that the Senate and House of Representatives of the Thirty-third Legislature would meet in joint session tomorrow, January 29, at 12 o'clock m., in this Hall, for the purpose of comparing the votes of the two houses for United States Senator.

The Speaker then directed the Clerk and the Secretary to compare the vote cast in each House on yesterday for United States Senator, for the term ending March 4, 1913.

The vote was compared, and the Speaker announced that the result showed that the Hon. Morris Sheppard had received 104 votes, that Hon. R. M. Johnston had received 66 votes and that Hon. C. B. Randell had received 1 vote.

Speaker Terrell then declared that Hon. Morris Sheppard, having received a majority of all the votes cast, was duly, legally and constitutionally elected United States Senator from the State of Texas for the term ending March 4, 1913.

The President of the Senate then directed the Secretary of the Senate to read from the Senate Journal of yesterday the proceedings had in the Senate

on yesterday in the election of a United States Senator for the ensuing term beginning March 4, 1913.

The Secretary then read the following from the Senate Journal of yesterday:

(Extract from Senate Journal of Tuesday, January 28, 1913.)

The Chair then stated nominations for United States Senator for the regular term, beginning March 4, 1913, were in order.

Senator Vaughan nominated Hon. Morris Sheppard.

Senator Terrell seconded the nomination of Mr. Sheppard.

There being no other nominations, the Chair declared nominations closed, and directed the roll called, the vote resulting as follows:

For Hon. Morris Sheppard:

Astin.	Morrow.
Bailey.	Murray.
Carter.	Nugent.
Collins.	Paulus.
Conner.	Real.
Cowell.	Taylor.
Darwin.	Terrell.
Gibson.	Townsend.
Greer.	Vaughan.
Hudspeth.	Warren.
Johnson.	Watson.
Kauffman.	Weinert.
Lattimore.	Westbrook.
McGregor.	Wiley.
McNealus.	Willacy.

Absent—Excused.

Brelsford.

For Hon. Morris Sheppard, 30 Senators announced their votes.

The Chair then stated that the Senate would meet with the House of Representatives in Joint Session on January 29, 1913, at 12 o'clock m., for the purpose of comparing the vote and declaring the result.

The Speaker then directed the Clerk to read from the House Journal of yesterday the proceedings had in the House on yesterday in the election of a United States Senator for the ensuing term beginning March 4, 1913.

The Clerk then read the following from the House Journal of yesterday:

(Extract from the House Journal of Tuesday, January 28, 1913.)

Speaker Terrell announced that in accordance with the concurrent action of the two Houses, the next order of business was the election of United States Senator for the term beginning March

4, 1913, and stated that nominations were in order.

Hon. Alvin M. Owsley of Denton county nominated Hon. Morris Sheppard of Bowie county.

Hon. Edgar P. Haney of Clay county seconded the nomination of Hon. Morris Sheppard.

Hon. T. M. Bartley of Lynn county seconded the nomination of Hon. Morris Sheppard.

Hon. F. O. Fuller of San Jacinto county seconded the nomination of Hon. Morris Sheppard.

Hon. R. B. Humphrey of Throckmorton county seconded the nomination of Hon. Morris Sheppard.

There being no further nomination, the Speaker declared nominations closed, and directed the Clerk to call the roll.

The roll was called, and, each member rising from his seat as his name was called, announced his choice.

The following members voted for Hon. Morris Sheppard:

Mr. Speaker.	Foster.
Allison.	Fountain.
Bagby.	Fuller.
Baker.	Furrh.
Barrett of Jones.	Gates.
Barrett of Titus.	Gentry.
Bartley.	Glasscock.
Bierschwale.	Greenwood.
Boehmer.	Griggs.
Broughton.	Grindstaff.
Brown.	Goodner.
Bruce.	Hagins.
Buchanan.	Hall.
Burges.	Haney.
Burmeister.	Harp.
Burns.	Harris.
Butler.	Haxthausen.
Byrne.	Heilig.
Calvin.	Henry of Bowie.
Campbell.	Henry of Wichita.
Chrestman.	Herder.
Coffey.	Hill.
Collins.	Hornby.
Colquitt.	Householder.
Cooper.	Hughes.
Cope.	Humphrey.
Cox of Delta.	Hunt.
Cox of Ellis.	Hunter.
Craven.	Jordan.
Crisp.	Kelley.
Cunningham.	Kennedy.
Davis.	Killingsworth.
Dickson.	King.
Diffie.	Kirby.
Dodson.	Lane.
Dove.	Lewelling.
Dunn.	Long.
Fields.	Macgill.
Flournoy.	McAskill.

McDaniel.	Russell.
McKamy.	Savage.
McNeal.	Schwegman.
Mangum.	Simpson.
Mendell.	Smith.
Mills.	Spann.
Morris of Coryell.	Spradley.
Morris of Victoria.	Stephens of Upshur.
Muleahy.	Stevens of Liberty.
Murray.	Stone.
Nabours.	Sullivan.
Neeley.	Tarver.
Olander.	Taylor.
Oliver.	Templeton.
Owsley.	Tillotson.
Paddock.	Tyson.
Parker.	Ussery.
Parks.	Vannoy.
Patton.	Vickers.
Powell.	Wagstaff.
Raiden.	Wahrmund.
Ratliff.	Walker.
Reedy.	Watson of Hays.
Reeves.	Watson of Mills.
Rickerson.	Webb.
Kidgell.	Williams
Ritchie.	of Hopkins.
Reach.	Williams
Robbins.	of McLennan.
Robertson.	Woods of Fisher.
Rogers.	Woods of Navarro.
Ross.	Wortham.
Rowell.	Yarbrough.

The Speaker then announced that Hon. Morris Sheppard had received 142 votes, all the votes cast, and that the Senate and House of Representatives of the Thirty-third Legislature would meet in joint session tomorrow, January 29, at 12 o'clock m., in this hall, for the purpose of comparing the vote for United States Senator.

Speaker Terrell then directed the Clerk and Secretary to compare the vote cast in the two houses for United States Senators for the ensuing term beginning March 4, 1913.

The vote was compared and the Speaker announced that the result showed that Hon. Morris Sheppard had received 172 votes, all the votes cast in the two houses.

Speaker Terrell then declared that Hon. Morris Sheppard, having received all the votes cast, he was duly, legally and constitutionally elected United States Senator from the State of Texas for the ensuing term of six years, beginning March 4, 1913.

The President of the Senate then directed the joint committee to escort Hon. Morris Sheppard to the Speaker's stand.

The joint committee, being duly announced, appeared in the Hall, accom-

panied by Hon. Morris Sheppard and proceeded to the Speaker's stand, where they were seated.

The Speaker then presented Hon. Horace Vaughan, of Bowie county, to the joint session, who introduced Senator Sheppard, and, in making the introduction, said:

Mr. Speaker, Mr. President, Gentlemen of the House, Senators, and Ladies and Gentlemen:

I count it an honor, indeed, to be privileged to introduce to you our newly-elected United States Senator. I shall not trespass upon your time by a lengthy introduction, for I know that you desire to hear him speak and not me. But it is altogether fitting that I should say some few words of introduction of the gentleman.

He is the pride of the town where he lives, he is the pride of the county where he lives, he is the pride of the district where he lives, and I believe I can say today that he is the pride of the great State of Texas, and ere long I look to see him the pride of the Democracy of this union.

Entering the Congress of the United States at the early age of twenty-seven years as the successor to his illustrious father, who honored that district by service in that body, he has been a valiant champion for the rights of the masses in the lower House of Congress, and has a record that is as spotless as the driven snow. In public life and in private he has the character that should be and will be—aye, is now, the emulation of the youth of Texas, and his election at this time will be an inspiration to every young man in Texas to a higher and nobler life. I present him to you.

Senator Sheppard then addressed the joint session and the assemblage as follows:

To be invested with the highest office the people of a great commonwealth may bestow is a distinction of such character that it should humble rather than elate the man on whom it is conferred. While I am grateful beyond all words for this election, I am impressed as deeply as human feeling will permit with the sacredness and the immensity of the task before me. In my hands you have placed the commission of the people. It shall be consecrated solely to the people's good. On it the shadow of no special interest shall ever fall.

The Senate of the United States is perhaps the most unique and powerful

legislative body in the world. It exercises co-equal lawmaking functions with the House of Representatives except as to bills raising revenue and these it may materially amend. It has the executive powers of approving or rejecting practically all Presidential appointments of importance, and of ratifying, amending or disapproving treaties, the latter prerogative making it the virtual arbiter of our foreign policies. As a high court of impeachment it may remove presidents, ambassadors or judges. It thus combines legislative, executive and judicial functions and in this respect it probably stands alone among the parliamentary assemblies of the earth. It is the distinctive feature of the Federal Union which without it could have no existence. The smaller States would never have consented to the Union but for the concession of equal representation in a second chamber with the larger States. The Senate is at once the preserver of State identity and the bulwark of the nation against executive encroachments and hasty legislation. Linking the State with the Nation it may be said to be the heart of the Federal organism. It has been called the masterpiece of the Constitution. It was evolved from the conditions that developed as the constitutional convention of 1787 proceeded, not a delegate having previously contemplated such a body.

Bearing so essential a relation to the Republic, it is not surprising that the American Senate became within a few decades the foremost assembly of its time. It was the scene of some of the greatest speeches and most notable arguments that have illumined our constitutional history. In the decade preceding the Civil War it reached perhaps the highest prestige it has ever known. The discussion of problems affecting the Nation's life attracted the attention of the globe. Seldom has there been witnessed a more imposing array of intellectual power. Within that mighty circle sat the stalwart Mangum of North Carolina, Cass of Michigan, skilled in statecraft, the favorite of his party; Chase of Ohio, with towering form and measured sentences; Berrien of Georgia, celebrated in the law, remarkable in the art of eloquence; Bell of Tennessee, the venerated commoner, the noted parliamentarian; Hunter of Virginia, beneath whose impassive features reposed ability pre-eminent; King, the cultured Alabamian, renowned in diplomacy, distinguished in the service of state and Nation; Soule of Louisiana,

impassioned son of France, shepherd of Navarre, friend of liberty and lover of the South; Houston of Texas, warrior, legislator, patriot, whose rugged majesty suggested the splendid domain he represented; Douglass of Illinois, the restless tribune, conspicuous alike in Senate, in courtroom or in forensic dispute, the idol of his people, the dread of any adversary; Benton of Missouri, turbulent as Danton, polished as Fox, profound as Pitt, defiant as Mirabeau; Clay of Kentucky, orator superb, whose conciliatory measures kept within the cave of compromise the storms of war for forty years; Calhoun, the immortal South Carolinian, philosopher, logician, sage, his potent comprehension penetrating every problem as with a lance of fire; Webster of Massachusetts, emperor of controversy, monarch of debate, who gave battle to Calhoun in constitutional discussion and challenged Clay in the analysis of practical affairs; Jefferson Davis of Mississippi, whom the historian Prescott pronounced the most accomplished of them all.

With the retention of the emergency tariffs of the Civil War and the consequent beginning of high protection with its conspiracies against trade, its destruction of competition, its oppression of the masses, its concentration of wealth, its debauchery of government and society the Senate began slowly to decline in public esteem. Its place of peculiar influence in the Federal System made it the goal of monopoly and privilege. The control of the Senate meant for the special interests, now growing with frightful rapidity, the control in large measure of the country. Representatives of the special interests soon saw that the possession of only a few Senators, when political parties were narrowly divided, would enable them to dominate the situation. The smallness of the body, the liberality of its rules which by virtue of the omnipotent tradition of senatorial courtesy permit any Senator to hold the floor indefinitely and provide no limit for debate make it possible for a mere handful of Senators frequently to arrest and sometimes to defeat legislation. And so the satraps and the janizaries of economic despotism began to turn their eyes and appetites toward the Senate. A wholesale trafficking in the votes of many State Legislatures followed. Long and disgraceful deadlocks, from which floated whispers of bribery and dishonor, made the elections of many Federal Senators a source of public scandal and humiliation. The result is too well known. The American Senate became the reputed lair of

privilege, the citadel of greed. It came to be denounced as an obstruction, a menace, and its abolition was seriously proposed. It was derided as the American House of Lords, the puppet of Standard Oil. A magazine of wide circulation astounded the country in a series of articles under the caption of the Senate's Treason by a detailed description of the questionable financial connections of several of its most prominent members. It came to be regarded as the grave of all good legislation. On one occasion two or three Senators, representing favor-seeking and favor-fattened industries paralyzed the Wilson tariff bill and sent the democracy into the wildernesses of defeat for nearly twenty years. The circumstances attending the election of some Senators were so notorious that investigations by the Senate itself resulted. The demand for the reconstruction of the Senate's personnel became one of the main causes of the progressive movement that has at last restored the democracy to National control. That demand has taken the shape of a proposed amendment to the Federal Constitution calling for the election of United States Senators by a direct vote of the people, and of preferential primaries for Senators in many States which the Legislatures almost without exception regard as sacred. Within recent years, therefore, new men have been pouring into the Senate who represent the popular choice in their respective States and who are co-operating with those of their respective senior colleagues who have always stood for popular ideals. As a result of the last National election the infusion of progressive Democratic blood will be so large as practically to dominate that historic chamber after the fourth of March. To make the Senate again the mirror of the people's interest will be one of the chief purposes of the triumphant democracy, a purpose in which I shall join with all the ability and enthusiasm at my command. I shall go to the United States Senate to promote the welfare of the people as a whole, to resist privilege and wrong wherever I may find them, to place my energies and my devotion at the call of progressive democracy, to serve the policies and the aspirations of that new apostle of human rights, Woodrow Wilson.

Never in American history has there been more emphatic need than now for justice and for courage in the conduct of affairs! The conditions that tended to bring the Senate into derision have reduced the Republic to the mere shadow

of what it was meant to be. We renounced the authority of King George over a hundred years ago but today we have King Monopoly and King Trust in almost every phase of American industry. In the new feudalism the control of a commodity is the mark of power. The slavery of the black man was abolished by the force of arms but today for the white man of average means an economic bondage as merciless as any slavery of the past is threatened and thousands of white women are held in a subjection that damns their bodies and their souls in order that the liquor trade may thrive. We boast of progress and of peace, but we are in a state of war between labor on one side and capital on the other, a war in which government by dynamite is the answer to government by injunction. We see the gamblers of high finance gambling in the products of the people's toil, juggling credits, stocks, bonds, banks, buildings, insurance companies, railroads, the necessities of life by some mysterious wizardry into dollars for themselves—misery for others. We see our forests denuded, our mountains stripped, our streams depleted, our lands exhausted, our mines pre-empted or outworn, our water powers entrapped—in short, our once tremendous heritage of material resources sacrificed in the mad Marathon for gold. We see women and children laboring under conditions that mean the degeneracy of the millions that are yet to be. We see the maiming and killing of more men by modern machinery than were ever mangled or destroyed in the bloodiest of the wars! We see these victims and their families often without the assurance of a penny except through a doubtful lawsuit or a pitiless compromise. We see the traffic in intoxicating liquors widening and filling the path to the almshouse, the insane asylum, the penitentiary and the tomb.

It would be going too far to say that legislation alone is responsible for the afflictions of society or that legislation alone may relieve them. A complete remedy for human ills would require the interposition of Him who holds Congresses and peoples in His palm. It must be remembered that the truest standard for governments and men are in the rules of conduct that were given to mankind by divine announcement. And it may safely be asserted that the closer human laws approach these rules the more firmly will this Republic rest upon the rock of right and truth. Since the lowly Galilean taught the universal kinship of man, the inherent equality of

every life and every soul, the doctrine that an injury to the humblest individual is an injury to Him, every dream of liberty, every struggle for justice, every upward step in human progress has been an effort to translate His teachings into the governments of humanity. Today we are coming rapidly to see that as long as one child is born deformed in body or in mind, the fruitage of drunken parents whom society by tolerating a damnable traffic helped to degrade, or of foul surroundings the product of injustice or of greed—that as long as a single citizen is stripped of his substance to multiply the possessions of the few, the Republic is to that extent a failure, civilization in that degree a crime. The Democratic doctrine of equal rights is an expression of the divine doctrines of equality and brotherhood and the Democratic party will live as long as it applies these principles to the varying emergencies of the world's development. The Democratic party is, therefore, in its very essence a progressive party and it can never be destroyed unless it ceases to be true to its progressive nature.

Let us now examine the application of Democratic principles to current questions. The Democratic party is opposed to the spoliation of the people by the system of tariff taxation miscalled protection. It holds that the imposition of import taxes in such manner as to raise the price of corresponding domestic articles beyond their proper worth is legalized theft. It states in the Baltimore platform that tariff taxes shall be levied for purposes of revenue only. It is therefore against the levying of tariff taxes for purposes of protection either direct or incidental. The words "revenue only" are meaningless unless they exclude the slightest suggestion of protection. In standing against the taking of a single penny by one American from another for which no adequate return is made the Democracy upholds the divine ideals of human conduct to which I have referred. And well may it summon all its powers for the overthrow of protection, a cancer in the vitals of the Republic already so far advanced that the most difficult and delicate treatment will be required.

It may well be said that the Republican protective tariff has brought more humiliation and more ruin to the American people than all other agencies of evil combined. It was fastened on this country in the turbulent hours of Civil War, when the severest methods of taxation were employed to meet that sinister crisis. To compensate certain manu-

facturers for high internal taxes on domestic goods taxes on competing imports were lifted to so outrageous a figure that they were tolerated only on the ground of a great national emergency and on the understanding that they would be removed or reduced when the war should end. Thus the partnership between the Republican party and the special interests began, a partnership becoming at once so strong that at the close of hostilities the war tariffs were continued and have been not only maintained but increased during the fifty succeeding years of peace. The Republican tariff law now in operation imposes an average of tariff taxes distinctly higher than those of one of the most gigantic conflicts in all the records of all the years. It would be difficult to measure the disastrous effects of this long riot of oppression on the American Republic. The Republican protective tariff has been one of the chief causes of the unequal distribution of wealth in the United States.

The restriction of foreign competition by enormous tariff rates opened the way for combinations of domestic industries and soon domestic competition, the normal safeguard against extortion, disappeared. The American trust sprang from the loins of the American protective tariff and the era of monopoly began. Today almost every article of necessity and comfort is in the control of a trust and a concentration of wealth as appalling as it is colossal, has developed. It is a modest calculation that less than a tenth of American families own nine-tenths of the nation's resources and the nation's wealth. The favorites of the law are displaying a wastefulness and a luxury that have permeated the social structure with debasing conceptions of life. The mere possession of great wealth has become a sufficient test of social position, the methods of acquirement being rarely questioned. Education, breeding, uprightness are too often as nothing in the scale with the dollars' naked weight. The extravagances of the wealthy have bred false standards that are too generally followed by people of smaller means. The result is that thousands are living beyond or to the limit of their incomes and find themselves in time of panic or in old age without the means of comfortable support. Corruption both political and financial has naturally followed in the tariff's track. The maintenance of privilege has required the continuous success of the Republican party at the polls. Millions poured into its treas-

ury until the popular demand for the publicity of campaign funds caused the larger contributions to cease.

It may confidently be said that publicity of campaign funds did more to end Republican domination in this country than any other single measure. As the tariff rates have risen the cost of living has increased until today the necessities of existence are more difficult to obtain than at any previous period in the history of this country or at any period in the history of any other country. The taxation of most of the basic raw materials of manufacture has led to their control by banded interests. The high prices made possible largely by high tariff rates lead to over-production and therefore to recurring periods of readjustment and of panic in which the weaker meet financial death. The restricted market of the present high tariff system has encouraged combinations of middlemen that largely control the carriage and marketing of the farmers' products at an immense loss to him. The glitter of tariff-rooted profit only whets the desire for gain and there naturally follow over-capitalization, stock-watering and other practices by which the public is exploited further. The accumulation of the nation's wealth in a few hands is separating the Republic into classes, and already the bitter battle of class against class is on. To resist these tendencies and conditions the Democracy is committed to the immediate downward revision of existing tariff duties and to a material reduction on the necessities of life. It is committed to the policy of placing articles entering into competition with trust controlled products, and articles sold abroad more cheaply than at home, on the free list. The Democratic party realizes, however, that the present system of tariff taxation is intimately connected with the business of the country, that many vast concerns and interests have been built up and today have contracts in advance based on present conditions, and it will therefore advance toward the ultimate realization of its ideals with such care and such deliberation as not to injure or to destroy a single legitimate industry. In this last utterance I am quoting almost literally from the Baltimore platform and with this idea of sane and careful revision I am in entire accord.

So powerful have monopoly and privilege become that the removal of the tariff will be but one step in a successful crusade against them. Other measures must also be employed if we

are to overthrow the power of the trusts, if we are to drive the dollar of corruption and dishonor from American politics and business. Effective laws must be enacted against monopoly. The Federal anti-trust law should be amended in such manner as to restore the efficacy of which it has been deprived by judicial construction. The last pronouncement of the Supreme Court of the United States as to the meaning of this law leaves the business world in confusion. It is now impossible for the sponsors of any enterprise to know in advance the limitations within which they may operate. In reading the word, "reasonable," into the anti-trust act, in holding that there may be reasonable and unreasonable monopolies, the Supreme Court has made the application of this statute so uncertain, so incapable of ascertainment without the expense, the delay, not to speak of the odium of an actual trial before some tribunal, as to amount to a virtual repression of business growth. Let the essence of the original statute be restored, the statute in the formation of which John H. Reagan performed so notable a part. Let laws be enacted prescribing conditions on which corporations shall engage in interstate trade, these conditions being such as to prevent interlocking directorates, holding companies, stock-watering, discrimination of all kinds, and to forestall such control of any line of business by a single concern as would threaten its complete absorption, or destroy legitimate competition. The failure of the Republican administration to invoke the criminal section of the anti-trust act against the officials of the oil and tobacco trusts after these giant combinations had been judicially declared unlawful is one of the most humiliating instances of legal favoritism in our history. What more signal illustration of the immunity of organized wealth from criminal prosecution could be imagined. It is not the object of the Democracy to attack property or to incite prejudice against the rich. On the other hand the security of honest property and the preservation of honest wealth depend in the last analysis on the prevention of monopoly and conspiracies against rightful trade. I shall favor placing at the disposal of the Democratic Attorney General every possible means for the enforcement of the anti-trust laws against men and corporations regardless of social eminence or financial power.

Hand in hand with the reduction of the tariff and the destruction of the

trusts must go a proper measure of supervision over interstate transportation. Competition can never be preserved among producers in the various sections of the country, the products of the farm can never be marketed with satisfaction, unless the most rigid fairness obtains in the matter of carriage charges. Of what benefit would be the lowering of a tariff tax on a given commodity if the freight rate from seaboard to interior consumer should be raised in proportion? What encouragement remains for the farmer when combinations of middlemen control practically all available transportation space, making independent shipments extremely hazardous and establishing conditions whereby the farmer gets about fifty per cent of the amount paid for his article by the consumer in the centers of population? Or what encouragement remains when regardless of whether middlemen control the cars, the rates of carriage consume the profits? The power of transportation is the power of economic life and death. The Interstate Commerce Commission must be provided with every facility for the maintenance of equitable rates. Provision should be made for a physical valuation of transportation properties and this with other elements of a fair calculation should be used as a basis for future rate making. The most permanent protection against unfair railroad rates lies, however, in the immediate and thorough development of the Nation's waterways. The waterway is the cheapest form of transportation known to man, and it provides a rate standard at once wise and permanent and just. One of the chief economic needs of Texas is the improvement of inland waterways. I shall endeavor to make the development of Texas harbors, Texas rivers and Texas canals one of the chief features of my service in the Senate.

In the warfare against privilege every possible safeguard should be thrown about the hosts of toil by nation and by State. I believe in the conservation of forests and rivers and mines, but I believe also in the conservation of men and women and children. I believe that the latter compose the Nation's most valuable resources. I want to see legislation for the prevention of accident and disease, legislation establishing safety and health standards in industrial occupations. I want to see the unemployed aided by proper legislation to find employment. I want to see the eight-hour day universally established, established for the women and the children

as well as for the men. I want to see convict labor removed from competition with free labor. I want to see one day's rest in every seven provided for all the toilers of the land. I want to see publicity as to wages, hours and conditions of labor in every line of industry. I want to see the employment of women in the sweat shops forbidden, child labor stopped. I want to see motherhood glorified and children saved. I want to see the law as to injunctions modified along the lines of the Democratic platform and the right of labor to organize held forever sacred. I want to see trial by jury in cases of indirect contempt and I am against the issuance of injunctions where injunctions would not issue if no industrial controversy were involved.

The battle against the domination of monopoly will be but half won until the control of the currency shall have been wrested from private hands. The issuance of money in currency or in coin is one of the essential functions of government, as much so as the power to declare war. As for me I would as quickly intrust an individual or a corporation with the power of declaring war as with the power to control the volume of the currency. There is a fundamental relation between the volume of currency and the price of every article the people make or use. Let the issuance of currency be restored to the primary control of government and let us have a system under such control that shall meet the demands of modern business. I think the existing system vicious because it places an essential attribute of sovereignty in private control and for the same reason I am opposed to the Aldrich bill. I believe that banks exist for the accommodation of the people and not the people for the accommodation of the banks. I would never yield the issuance of the currency to an oligarchy of banks. The Aldrich bill provides for an association of banks to which shall be given over the power to determine when the volume of currency shall be increased or decreased. The capital of the association will be something like three hundred million dollars, and the stock will be sold only to banks investing one-fifth of their capital therein. Dividends are not to exceed five per cent, a provision unfair to smaller banks. The association is to be chartered for fifty years, during which all the government deposits, the money of the people, are to be used by the association without a cent of interest. No bank will be permitted to borrow money from the association unless it carries

deposits with it on which no interest is paid. The way is thus blazed for a concentration of monetary control in this country that would dominate the destinies of the Republic. The law is so framed that permanent and actual control will rest in an executive committee of nine men, only two of whom are appointed by the President of the United States. Such a system of concentrated power over the earnings of the people and the currency of the government has never been popular with the American people and the Democratic platform in denouncing it calls attention to the fact that the Aldrich bill practically means a central bank to which every tradition of democracy is opposed. The Democrats in the House and Senate, assisted by the Democratic President and his advisers will evolve a plan of currency reform, based on Democratic ideas, and in the preparation of such a plan I shall gladly co-operate.

Any recital of the measures which should be employed to end the reign of special privilege would be incomplete without reference to the assumption by the people of a more direct control of government. Indeed, the last National Democratic platform specifically asserts that "only by a larger exercise of the reserved power of the people can they protect themselves from the misuse of delegated power and the usurpation of governmental instrumentalities by special interests." The most effective system by which this larger exercise of reserved power by the people may be secured is the system commonly known as the initiative and referendum. No profounder misconception ever found lodgment in the human brain than the contention that this system means either the overthrow of representative government or a departure from a republican form of government. One of the clearest definitions of a republican form of government was announced by Mr. Justice Wilson in *Chisholm versus Georgia*, who said that it was one under which supreme power rested in the people. The system of the initiative and referendum vests supreme power in the people and is itself a means by which that power may be effectively exercised. If the people commit the powers of government to representatives for a term of years and provide no way in which those powers may be resumed during such term they abdicate sovereignty for a given period and if the representatives betray them have no remedy until the next election, when the damage may be beyond repair. On the contrary, if the people

while committing the powers of government to representatives reserve the right to initiate legislation or to refer legislation to themselves they keep the reins of government always within their reach and make far more certain the loyalty of their representatives. The initiative and referendum means the life of representative government, not its death. No government is really representative unless the people have the power to make it so and keep it so. Do you say that elections are a sufficient check on legislation? I tell you that a few designing men may by a single vote on a single question in a great emergency fasten plutocracy on the land and either decline to stand for re-election or aided by the interests they have served attempt to purchase it. I say further that special interests will not expend vast sums or otherwise endeavor to corrupt the people's representatives if they know the laws they thus secure may be immediately submitted to the people. Neither will they infest the lobbies of our Legislatures to resist measures in the people's interest when they know the people have the right to submit those measures to themselves if the Legislature should fail to enact or should defeat them. Most of the States have adopted their constitutions by direct popular vote and many of these constitutions contain self-enacting legislative provisions. I say that if the people may adopt constitutions they may enact laws whenever such a step is necessary to protect their rights. Most of the State constitutions require certain kinds of legislation to be referred directly to the people and in Texas at the last election some five or six amendments to the Texas Constitution were passed by a popular referendum. Was it sacrilege for the people of Texas to lay their hands upon the machinery of government? Did this mean the destruction of representative institutions in Texas or the overthrow of the republican form of government? I call attention to the fact that while under the initiative and referendum the people may exercise legislative powers and may in a sense veto or defeat bills passed and approved by the Legislature and the Governor, still in the practical working of this system, the legislative, executive and judicial departments are not destroyed but remain intact to continue the discharge of the vast mass of legislation subject only to corrective action by the people in the event they find their interests imperiled or betrayed. For twelve years both the Senate and

the House of Representatives at Washington, containing able lawyers and gifted students of the Federal Constitution, have been seating members from States whose constitutions provided for the initiative and referendum, thereby heaping precedent on precedent against the contention that this form of direct legislation violates the Federal guaranty of a republican form of government. If members of the Federal Congress had believed that these States had governments which subverted the most fundamental guaranty of the Federal Constitution, it was their sworn duty to protest and vote against the seating of representatives from these States. The Supreme Court of the United States, in *Luther versus Borden*, says that when the Senators or the Representatives of a State are admitted into the councils of the Union the authority of the government under which they are admitted, as well as its republican character, is recognized by the proper constitutional authority.

It is urged that laws are too complicated now and that this system will further complicate them. I contend that this system will simplify the laws because the people will defeat a law they do not understand. Laws too complicated for the people to understand ought to be defeated. One of the greatest needs of the time is for clearer and simpler laws. Today the laws are hidden in thousands of volumes containing numberless and frequently conflicting decisions and the citizen is often compelled to employ counsel at great expense to ascertain the meaning of what his own government did in supposed obedience to his own will. The most comprehensive and the simplest code the world has known, the basis of modern as well as ancient conduct, a code that has survived for forty centuries, a code as lucid and as vital now as when fashioned on the thunder-shaken peak for tented Israel is comprised in less than a dozen sentences, in fewer than three hundred words. They tell us that the direct method will result in harmful legislation. They forget that the principle of self-preservation is too deeply rooted to permit the people deliberately to injure themselves. They say that it will mean turmoil and change. I answer that the people acting in mass are the safest and most conservative force in history and that the very existence of such a check will make its exercise rarely necessary. They say that it means revolution. The answer is that with the people in con-

trol there will be no occasion for revolution except through the orderly expression of the people's will. It is only when government is outside the people's control that drastic methods become necessary for its recovery. It has been well said that Anglo-Saxon manhood confined beneath the pressure of accumulated injustice is the most dangerous explosive known to history. The initiative and referendum is a safety valve against both ultra-radicalism and ultra-conservatism. If laws are too radical the conservatives may appeal through this method to the electorate; if too conservative radicals may likewise employ it. In no State or country where the system has been in operation is there any movement of importance to repeal it.

I am as loyal as any man or group of men to representative government. For this very reason I favor any measure that will make the government more representative. It is not proposed to substitute direct legislation for the representative system because of necessity the great mass of legislation must be enacted by representatives elected by the people while they pursue the various callings of life. It is proposed to employ the direct method only to such extent as may be necessary to make the government what the founders intended it should be, the true expression of the people's will.

The income tax and laws providing for publicity of campaign funds as well as prohibiting the lavish use of money in elections are other features of the progressive program too well known and too generally approved to require enlargement here. Wealth should be subjected to its proper proportion of the burdens of taxation and the dollar should not be tolerated as a governing force in American politics. I am proud of the fact that in the recent primaries I made a campaign throughout Texas of some eight or ten months' duration for one of the highest positions on a comparatively modest sum, demonstrating that such positions are within the reach of men of moderate means. Not only should candidates refrain from large expense but public officials should avoid all connections and entanglements with interests that might in any way conflict with the people's service. Proper laws should be enacted to cover these suggestions. The Federal publicity law is in especial need of immediate and thorough amendment.

It is the mission of the Democratic party not only to oppose every form of

economic oppression, but also to keep alive the underlying spirit of the Republic. Furthermore, it should promote in every proper way the development of the country's material resources and the well-being of the people. Nothing will do more to revive and vindicate the basic principle of this republic than independence for the Philippines. The purchase of eight millions of the human race and their subjection to an alien government made the torch of liberty burn feebler not only here but throughout the world. It put the stain of despotism on the American flag. Mr. Wilson has already announced that one of his first recommendations will be the passage of an act guaranteeing the autonomy of the Philippines within a reasonable time. The strengthening of governmental agencies relating to pure foods, quarantine, vital statistics, and human health, the proper handling of the public domain, economy in the handling of public moneys and the development of agriculture are measures demanding careful and patriotic study.

The encouragement of agriculture calls for the best efforts of the Nation. It is a matter of National reproach that we have made smaller advancement in agriculture than in other lines of economic growth. Although we have cultivated the virgin acres of a fertile continent for fewer than a hundred years these acres are producing far less than those of countries that have been under intensive development for many centuries and much of our soil is exhausted within a single generation. Although we have a population of only thirty-one to the square mile the number of inhabitants in the rural districts is relatively decreasing and the greater part of our people is being rapidly concentrated in the already over-crowded cities. The task that challenges the most capable statesmanship is the revival of the glory and the attractiveness of farm life. The main problems before us are the production of more and more per acre and the redistribution of our people among the villages and the rural sections. Farmers' organizations should be given every possible assistance. Federal and State departments of agriculture and agricultural colleges and institutes should all be brought into closer and more fruitful relationship. Rural routes, good roads, better marketing facilities, farm credits should all be constantly studied, and developed to the end that the farm home may be brought into touch with modern progress. The pernicious practice of gambling in farm

products must be stopped. In view of the fundamental importance of agriculture and of the fact that Texas is essentially an agricultural State, its principal splendor lying in its imperial expanse of soil, I am determined to devote especial attention to this phase of national development.

In fact let me say here that wherever it may be possible within the sphere of proper Federal activity to secure the co-operation of the general government in the advancement of Texas I shall be found urging the claims of my native State. Texas has hardly emerged from economic infancy and already her resources, her achievements and her possibilities have awakened universal wonder. Immense areas in Texas require irrigation and other portions have other needs that must be seriously considered in order that our fullest capabilities may be realized. Our rivers, harbors and canals must be improved to supplement our agricultural growth and to furnish a permanent and inexpensive highway to the sea. I shall endeavor to secure membership on Senate committees having these matters directly in hand. I may not be so fortunate as to secure membership on all such committees at once, but the sooner I enter the Senate and begin to work for places on them, the earlier and more effective will be my success in this regard.

I now come to one of the most important questions confronting the Nation. The question of prohibiting the shipment of intoxicating liquors into prohibition States for purposes of sale. It is a question involving the very essence of the American system of government. The Federal Constitution is based on a division of powers between the general government and the States. In the skillful distribution of National and State functions the Constitution finds its chief permanence, its crowning excellence. In ratifying the Constitution the States yielded to the central government the powers which concerned the common destiny and interest, reserving the remaining attributes of sovereignty to themselves or the people. Any disturbance of this equilibrium is a blow at the existence of the most notable governmental system the brain of man has yet conceived.

Among the most sacred rights reserved by the States under the Federal Constitution is the control of all legislation pertaining to the health, the safety and the morals of their respective populations—in other words, the control of all matters demanding the exercise of the

so-called police powers of government. In the exercise of this right many States have enacted laws prohibiting the manufacture and sale of intoxicating liquors within their various limits and have taken every possible step to secure their enforcement. The Supreme Court of the United States has held that such laws are not in conflict with the Federal Constitution, that intoxicating liquor is an article of such character that a State in the protection of the health, the morals and the safety of its people may prohibit the manufacture or sale of such liquor. The effect of this holding is to place intoxicating liquor in a class outside the usual articles of consumption and trade, such as flour, clothing, furniture and the like. It has never been contended that a State could adopt similar laws as to these latter commodities in their normal condition. It would be a deprivation of an inherent property right possessed by every citizen of the United States. But no such right is recognized in intoxicating liquors.

Despite the enactment of laws prohibiting the sale of intoxicating liquors in certain States the enforcement of such laws is seriously impeded and frequently prevented by vast shipments from other States. Great mail order houses have been established for the purpose of invading prohibition territory and tearing down State laws. The Federal Government protects such shipments on the ground that they are interstate in character and cannot be reached by State laws until after delivery to consignee, Congress having as yet passed no law excluding such shipments from interstate commerce. The result is that railroad stations and express offices in prohibition States are being converted into speak-easies and blind tigers from which these liquors are secretly taken or secretly sold in defiance of the people's will. Thus the Federal Government is lending itself to the humiliation of the State, to the overthrow of the most sacred right which its own Constitution guarantees. Thus the Nation has become a partner in a piracy as foul as any the high seas ever saw and in the destruction of the principle of local sovereignty as defined and approved by the Federal Constitution. Thus the American flag is wrapped around the whiskey barrel and the beer keg and made an emblem of anarchy and crime. It is said that the States ought to be more vigilant in the enforcement of prohibitory laws. It would require a small standing army at an expense no State could bear to surround every depot and every ex-

press office with armed guards by day and by night, year in and year out.

The bill relating to interstate shipments now before Congress provides in brief that the interstate transportation of intoxicating liquors intended to be used in violation of the laws of the State of destination shall be prohibited. It does not apply to liquor shipped for personal use, for sacramental purposes or for any other disposition not forbidden by State laws. In my judgment the constitutionality of such a law cannot be seriously questioned. The Constitution clothes the Federal Government with absolute power over interstate commerce, a power complete in itself and subject only to the limitation of that great instrument itself. It is well understood that under this power Congress may prohibit the interstate transportation of articles destructive of public health or safety or morals or whose shipment would be violative of sound public policy. In the lottery case, 188 U. S., 321, Mr. Justice Harlan says: "But surely it will not be said to be a part of any one's liberty as recognized by the supreme law of the land that he shall be allowed to introduce into commerce among the States an element that will be confessedly injurious to public morals." In *Mugler versus Kansas*, 123 U. S., 162, the Federal Supreme Court says: "It is within the knowledge of all that the public health, the public morals and the public safety may be endangered by the general use of intoxicating liquors." Section 245 of the United States Penal Code provides that the sender and the carrier of any drug or medicine adapted or intended for indecent or immoral use from one State to another, and the consignee as well, shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both. The Supreme Court of the United States has gone so far as to uphold a Federal law denying to interstate commerce shipments of game killed in violation of State laws, showing the desire of the court to have the Federal Government co-operate with the State governments in upholding such laws, or at least to keep the Federal Government from crippling or interfering with them.

Let us concede so far as this argument is concerned, that an article properly in the channels of interstate commerce can not be reached by State laws until after delivery to consignee, on the theory that an earlier operation would be an arrest of interstate commerce and a practical delegation of the Federal power of regulation to the State which under Federal

decisions cannot be permitted. No such objection lies to this bill. It deprives liquors intended to be used in violation of the laws of the State of destination of the right to enter interstate commerce under the protection of the interstate commerce clause of the Constitution. Such liquors are divested of interstate commerce character and State laws may operate upon them before they reach the consignee without in any sense operating upon or regulating interstate commerce. Do you say that the intent with which a thing is to be used ought not to determine its status? I answer that the Supreme Court of Massachusetts has held that liquor possessed with intent to violate the laws of the State is impressed with the character of a nuisance and thereby divested of property rights. It will be immediately conceded that a contract made in one State with intent to violate the laws of another State is illegal and unenforceable. Most of the successful liquor prosecutions in Oklahoma are based on the law in that State making possession with intent to violate any Oklahoma prohibitory law a crime, a law that has never been successfully attacked. Is it said that an innocent vendor, ignorant of the intention of the consignee, may suffer? I say let vendors of liquors to consignees in prohibition States collect their money in advance or make such shipments at their peril. Already the national Penal Code prohibits C. O. D. shipments of interstate liquors and permits no person to act as agent for the vendor in order to complete the sale. Is it insisted that an innocent vendor could not collect from a consignee who might interpose his own guilty intention as a defense against the debt? I submit that in no American court will a man be permitted to take advantage of his own wrong. Is it objected that it is difficult to prove intent? It is far easier to prove intent where a shipment of liquors is consigned to a notorious bootlegger than in nine-tenths of the criminal cases where intent is the very essence of the offense. Is it urged that under this law attempts will be made to enforce the laws of one State in the courts of another? The reply is that the courts of the State of shipment will never be involved because one State cannot enforce the penalties of another. Is it argued that vexatious interferences with interstate commerce will result? The difficulties of maintaining an espionage over all the commercial highways in the United States are such that in practical operation the law will as a rule

be invoked only at or near the point of destination.

The opponents of interstate liquor legislation in Congress have been advancing constitutional and other objections for twenty years. The American people now demand a vote. The time for discussion has passed; the hour of action has arrived. It is the duty and the right of members of Congress to oppose this legislation if they believe it unconstitutional or inadvisable. It is equally the duty and the right of the people to send men in their places who believe the legislation both constitutional and advisable. An area equal to three-fourths of the inhabited territory of the United States has been voted dry, but the solemn enactments of the people are being crushed and desecrated by those who operate from the outside. The Constitution is profaned, self-government overturned, the Nation made an accomplice in a conspiracy against the States in order that a traffic, as odious as it is powerful, may multiply its profits from the wrecked ambitions, the shattered hopes, the ruined homes of men.

This legislation is but another step in the warfare against a traffic whose existence is the Nation's shame. The liquor traffic is a peril to society because it undermines the health, the strength and the integrity of man. It is a menace to the Republic because a race of weaklings cannot sustain or comprehend the institutions of liberty. It is a source of danger to posterity because the alcoholic taint foredooms the unborn millions to degeneracy and to disease. I shall oppose this scourge from hell until my arm can strike no longer and my tongue can speak no more. I shall oppose it because I hear the cries of children who are hungering for bread. I shall oppose it because I see a mother's wasted face, her pale lips pleading with the besotted figure at her side. I shall oppose it because I see the staggering forms of men whose trembling hands hold but the ashes of their strength and pride. I shall oppose it because it mocks all manhood and makes of woman's virtues a commodity of the slums. I shall oppose it because I see its battle line outstretched across the globe threatening to engulf the pure, the true, the good. I shall oppose it because its abolition will mean a new stability for the Republic, a new radiance for the flag.

IN THE SENATE.

The Senate was called to order by Lieutenant Governor Will H. Mayes.

ADJOURNMENT.

On motion of Senator Willacy the Senate, at 1:30 o'clock p. m., adjourned until 10 o'clock tomorrow.

APPENDIX.

SENATE BILL NO. 58—PRINTED HERE BY ORDER OF THE SENATE.

S. B. No. 58. By Senators Brelsford
and Hudspeth.

A BILL

To Be Entitled

An Act to provide an adequate system of laws relating to irrigation and declaring the unappropriated waters of the State the property of the State; authorizing their appropriation, storage and diversion for beneficial uses; creating a Board of Water Control and prescribing its powers, duties and compensation; defining water rights and prescribing the method of acquiring, perfecting and preserving same; requiring application to be made to the State Irrigation Engineer for permits to construct irrigation works, and prescribing the method thereof; limiting the right to the waters of the State to beneficial uses, and declaring forfeiture for abandonment of use; prescribing standards for the measurement of water; providing a method for the adjudication of water rights by the Board of Water Control; authorizing appeals from the decisions of the State Irrigation Engineer and of the Board of Water Control, and regulating the manner thereof; prescribing the method of serving notices on claimants and appropriators of water and declaring the effects of failure to observe the same; authorizing the issuance of certificates of water right and the recording thereof; fixing certain fees; creating the office of Water Commissioner and prescribing the privileges, duties and compensation thereof; authorizing the appointment of special assistant engineers and prescribing their powers, duties and compensation; dividing the State into water divisions and water districts; prescribing the method for determining and recording titles to irrigation works, and establishing the

period of limitation to quiet titles thereto; providing for the exclusion of fish from irrigation canals; regulating partnership ditches; conferring the right of eminent domain in aid of construction of irrigation works; prohibiting the seeding of Johnson grass or Russian thistle on irrigation canals; prescribing penalties for violation of the provisions of this act; requiring the capping of flowing artesian wells; authorizing the chartering of corporations to construct and operate irrigation works; authorizing contracts for the supply and delivery of water, and creating liens to secure payment thereof; authorizing the acquisition of lands by irrigation companies, and requiring the alienation thereof; repealing all laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Water Declared State Property.

Section 1. The unappropriated waters of the ordinary flow, storm flow and underflow of every flowing stream, canyon, ravine, depression or watershed, and all lakes and other collections of still water, within the State of Texas, are hereby declared to be the property of the State, and the right to the use thereto may be acquired by appropriation for the uses and purposes and in the manner hereinafter provided.

Storage and Diversion Authorized.

Sec. 2. The waters described in the preceding article may be held or stored in lakes or reservoirs, constructed by any person or firm, or by any corporation or association of persons formed for the purpose, for domestic use, and for irrigation, mining, milling, the construction of waterworks for cities and towns, or for stock raising, and all such waters may be diverted by the person or firm, corporation or association of persons owning or controlling such reservoir or lake for the purposes above enumerated, provided that the ordinary flow of any natural lake or stream shall not be diverted to the prejudice of the rights of the riparian owner without his consent, except after condemnation thereof in the manner hereinafter provided.

Sec. 3. As between appropriators, the first in time is the first in right.

State Divided Into Water Divisions.

Sec. 4. There shall be constituted a board, to be known as the Board of Water Control, to be composed of the State Irrigation Engineer and of super-

intendents of the water divisions, which board shall have, under such regulations as shall be prescribed by law, the control of all of the waters of this State, and of their appropriation, distribution and diversion, and of the various officers connected therewith. Its decisions shall be subject to review by the courts of this State.

The State shall be, and is hereby, divided into four water divisions, as follows:

All that portion of the State lying west of the one hundredth meridian, west longitude, and north of the thirty-second parallel north latitude, shall constitute Water Division No. 1.

All that portion of the State lying south of the thirty-second parallel north latitude and west of the one hundredth meridian west longitude shall constitute Water Division No. 2.

All that portion of the State lying between the one hundredth meridian west longitude and the ninety-seventh meridian west longitude shall constitute Water Division No. 3.

All that portion of the State lying east of the ninety-seventh meridian west longitude shall constitute Water Division No. 4.

State Engineer.

Sec. 5. There shall be a State Irrigation Engineer, who shall be appointed by the Governor of the State, by and with the advice and consent of the Senate; he shall hold his office for a term of two years, and until his successor shall have been appointed and shall have qualified; he shall be president of the Board of Water Control, and shall have general supervision of the waters of the State and of the officers connected with its distribution.

No person shall be appointed to the position of State Irrigation Engineer who has not such technical knowledge and such practical experience and skill as shall fit him for the duties of the office.

Sec. 6. Before entering upon the duties of his office, the State Irrigation Engineer shall take the oath prescribed by the Constitution. He shall enter into bond payable to the Governor of the State, and to his successors in office, in the penal sum of five thousand (\$5000) dollars, with not less than two personal sureties, or with one surety or guaranty company authorized to do business in this State, conditioned for the faithful discharge of the duties of his office and for delivery to his successor, or other officer appointed by the Governor to receive the same, of all moneys, books and

other property belonging to the State then in his hands or under his control, or with which he may be legally chargeable as such officer.

Sec. 7. The State Irrigation Engineer shall receive a salary of thirty-six hundred (\$3600) dollars per annum, payable in monthly installments.

Sec. 8. The State Irrigation Engineer shall keep his office in the Capitol building, in quarters to be allotted him by the Superintendent of Public Buildings and Grounds. He shall make, or cause to be made, measurements and calculations of the flow of streams from which water may be taken for beneficial uses, commencing such work upon those streams that are most used for irrigation or other beneficial uses. He shall collect data and make surveys to determine the most suitable location for constructing works to utilize the waters of the State and to ascertain the location and extent of the lands best suited for irrigation. He shall examine reservoir sites, and shall in his reports embody all the facts ascertained by such surveys and examinations, including, wherever practicable, estimates of the cost of proposed irrigation works and of the improvement of reservoir sites. He shall make himself conversant with the water-courses of the State and of the needs of the State concerning irrigation matters and the storage of the waters of the State for other purposes. He shall make biennial reports to the Governor of the State, and he shall make such suggestions as to the amendment of existing laws and the enactment of new laws as his information and experience may suggest, and he shall keep in his office full and proper records of his work, observations and calculations, all of which shall be the property of the State.

Sec. 9. The State Irrigation Engineer shall have the power to employ an Assistant Irrigation Engineer or Engineers, not exceeding two in number, at salaries not to exceed eighteen hundred (\$1800) dollars each per annum, and to employ other assistants at a total additional expense of not to exceed twelve hundred (\$1200) dollars per year.

Sec. 10. When the State Irrigation Engineer or his assistants are called away from the office they shall be entitled to their actual traveling expenses, which shall be paid out of any money appropriated for that purpose on the certificate of the State Irrigation Engineer. Such certificate shall be paid in the same manner as is provided by law for other State officers and departments.

Sec. 11. The State Irrigation Engi-

neer shall collect the following fees which shall be collected by him in advance of the service rendered, and shall be paid by him into the general fund of the State Treasury, as provided by law:

For filing and examining applications for permits to appropriate water, and maps of same, two dollars.

For recording any water right instrument not specified above, one dollar for the first one hundred words, and for each additional folio, fifteen cents.

For issuing certificate of appropriation of water, one dollar, provided that said fee of one dollar shall be by each appropriator or claimant paid to the Water Division Superintendent at the time of submission of testimony and proof of appropriation of water by such appropriator or claimant before the said Division Superintendent, as by law provided, which said fee shall be by the said Superintendent immediately turned over to the State Irrigation Engineer and his receipt taken therefor and filed in the records of the Board of Water Control.

For making certified copies of any document recorded or filed in his office, one dollar for the first folio and fifteen cents for each subsequent folio, including each certificate attached thereto.

Water Rights.

Sec. 12. A water right is the right to use the water of the State when such use has been acquired by the beneficial application of water under the laws of the State relating thereto and in conformity with the rules and regulations dependent thereon. Beneficial use shall be the basis, the measure and the limit to the right to use water at all times, not exceeding in any case the limit of volume prescribed by law. Water being always the property of the State, rights to its use shall attach to the land for irrigation, or to such other purpose or object for which acquired, in accordance with the beneficial use made.

Sec. 13. The Board of Water Control may provide rules and regulations by which a water right may be detached from the particular land, place or purpose for which it is acquired and transferred to other land, place or purpose dependent upon the same source of supply, without loss of priority.

Application for Water Right.

Sec. 14. Any person, firm or corporation hereafter intending to acquire the right to the beneficial use of the water of the State shall, before commencing the construction, enlargement or extension

of any reservoir or other storage work or of any ditch, canal or other distributing work, or performing any work in connection with the storage or diversion of said water, or with the proposed appropriation, make an application in writing to the State Irrigation Engineer for a permit to make such appropriation. Such application shall set forth the name and postoffice address of the applicant, the source of the water supply, the nature of the proposed use, the location, and description of the proposed reservoir, ditch, canal or other work; the time within which it is proposed to begin construction, the time required for completion of construction and the time required for the application of the water to the proposed use.

Any person, firm, association or corporation who shall wilfully divert or appropriate the water of the State without compliance with the law, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one hundred (\$100) dollars, or by imprisonment in the county jail for a term not exceeding six months, and each day that such diversion or appropriation of water shall continue, shall constitute a separate offense, and the possession of such diverted water, except when the right to use is acquired in accordance with law, shall be prima facie proof of the guilt of the person using such water.

Sec. 15. If the proposed right of use is for agricultural purposes, the application shall give a description of the land proposed to be irrigated, with the total acreage to be reclaimed, as near as may be. On receipt of such application, which shall be in the form prescribed by the State Irrigation Engineer, it shall be the duty of that official to make an endorsement thereon of the date of its receipt, and to make a record of such receipt in some suitable book in his office. It shall be his duty to examine said application and ascertain if it sets forth all the facts necessary to show the location, nature and amount of the proposed use. If, upon such examination, the application is found to be defective, the State Irrigation Engineer shall return the same to the applicant for correction. The date of such return, with the reasons therefor, shall be endorsed on the application, and a record made thereof in a book kept for recording receipt of such application. A like record shall be kept of the date of the return of corrected applications, and of the date of the refusal and return of applications which are rejected.

Sec. 16. All applications which shall comply with the provisions of this chapter and with the regulations of the State Irrigation Engineer's office and of the Board of Water Control, shall be recorded in a suitable book kept for that purpose, and it shall be the duty of the State Irrigation Engineer to approve all applications made in proper form which contemplate the application of water to a beneficial use, and where the proposed use does not tend to impair the value of existing water rights or riparian rights is not detrimental to the public welfare.

Where there is no unappropriated water in the proposed source of supply, or where the proposed use conflicts with existing water rights, riparian rights, or threatens to prove detrimental to the public interest, it shall be the duty of the State Irrigation Engineer to reject such application and to refuse to issue the permit asked for.

Sec. 17. The refusal or approval of an application shall be endorsed thereon and a record made of such endorsement in the State Irrigation Engineer's office. The application so endorsed shall be returned to the applicant. If approved, the same shall constitute a permit for the proposed use of water and for the construction of the works described, the applicant shall be authorized, on receipt thereof, to file the same in the office of the county clerk of the county in which such appropriation is made, and it shall be the duty of the county clerk to file the same and to record the same, together with the endorsements thereon, in a suitable book to be kept for that purpose, and the clerk shall be entitled to the same compensation as is allowed by law for the filing and recording of deeds and such filing shall constitute notice in like manner and effect as is provided by law for the filing of deeds.

Upon the filing of such approved application in the office of the county clerk, the applicant may proceed with the construction of the necessary works and to take all steps requisite to apply the water to the beneficial use and to perfect the proposed appropriation.

If the application is refused, the applicant shall take no steps toward the prosecution of the proposed work, or the diversion and use of the water, so long as such refusal shall continue in force.

Sec. 18. Before either approving or rejecting an application, the State Irrigation Engineer may require such additional information as will enable him to further guard the public interests, and may, in the case of applications proposing to divert more than twenty-five

(25) cubic feet of water per second of time, or to reclaim more than one thousand (1000) acres of land, require a statement of the following facts:

In case of incorporated companies he may require a submission of the articles of incorporation, or a duly certified copy thereof, together with the names and addresses of its directors and officers, and of the amount of its authorized and of its paid up capital stock.

If the applicant is not an incorporated company, the State Irrigation Engineer may require a showing of the name or names of the party or parties proposing to construct the work, and a showing of facts necessary to enable him to determine whether or not they have the financial ability to carry out the proposed work, and whether or not the said application has been made in good faith.

Sec. 19. When an application shall have been approved by the State Irrigation Engineer, actual construction work shall begin within one year from the date of such approval, and the proposed irrigation work shall be completed within a period of five years from the date of such approval, provided that such engineer may, in his endorsement of any application, limit the applicant to a less period of time for the completion of good work, and such engineer shall have authority, for good cause shown, to extend the time within which irrigation or other works shall be completed under any permit therefor issued by said engineer, which order of extension, together with the reasons therefor, shall be endorsed on the application and entered of record in the office of the engineer.

Sec. 20. Any applicant feeling himself aggrieved by the endorsement made by the State Irrigation Engineer upon his application may, in writing, in an informal manner and without pleadings of any character, appeal, within sixty days of the date of such endorsement and notice thereof to the applicant, to the Board of Water Control for an examination and reversal of any such action of the engineer, by filing with the Secretary of the Board of Water Control notice in writing of such appeal. Upon receipt of such an appeal, the Secretary of the Board of Water Control shall notify the members of the board, and upon replies from them shall fix a date as early as may be practicable when such appeal shall be heard before the board. All parties directly interested in the appeal, and those who claim an adverse interest thereto, shall be duly notified in writing and may be heard at such hearing.

Any person feeling himself aggrieved by any order or determination of the Board of Water Control in cases embracing such appeals from the State Irrigation Engineer may, within ninety days from the date of such action by the Board of Control, and not afterward, take an appeal to the district court of the county in which the greatest use of water is proposed to be made under such application.

The procedure in such appeals shall be in substantial conformity with the provisions hereinafter contained and with the statutes of this State regulating practice and procedure in the district courts.

Sec. 21. In all litigation to which the Board of Water Control shall be a party, the Attorney General shall represent the board.

Maps.

Sec. 22. Each application for permit to appropriate water shall be accompanied by a map or plot in duplicate showing substantially the location and extent of the proposed works. These maps, or plots, must be drawn on tracing linen, on a scale of not less than two inches to the mile. They must show the location of the head gate, or point of diversion by courses and distances from permanent natural objects. They must show the actual location of the ditch or canal, and the water line of the reservoir. The map or plot must show the course of the river, stream or other source of water supply; the location and area of all lands proposed to be reclaimed; the position and area of all reservoirs or basins intended to be created for the purpose of storing water; the location of the intersection with all other ditches, canals, laterals or reservoirs which are caused by this work, or with which connections are made but all streams, and all intersecting ditches, canals and reservoirs not connected with the proposed work shall be represented in ink of different color from that used to represent the proposed works. These maps must contain the name of the proposed work and, where possible, the number of the permit. They must, in addition, give the name or names of the applicant or applicants and the certificate of the surveyor, giving the date of his survey, his name and postoffice address.

Sec. 23. It shall be the duty of the State Irrigation Engineer to examine these maps or plots and to ascertain if they agree with the description contained in the application, and when found to agree, or when they have been made to agree, to approve the same, file one copy

in his office and return the other copy to the party filing them.

Sec. 24. In case of ditches or canals carrying more than 50 cubic feet of water per second, the State Irrigation Engineer may require, in addition to the maps or plots above described, the following information:

A longitudinal profile of the ditch, showing the bottom and the proposed water line.

The horizontal scale of this line shall not be less than one inch to 1000 feet and the vertical scale shall not be less than one inch to twenty feet.

Sec. 25. The State Irrigation Engineer may require, in addition to the maps and plots above described, a plan showing cross sections, at a sufficient number of points to show the different forms which the ditch when completed will take, and show what proportion of the water is to be conveyed in excavation and what proportion is to be conveyed in fill.

These plans shall be drawn on a horizontal and vertical scale of one inch to twenty feet; plans of any dams, cribs and embankments, or other proposed work to obstruct any river, stream, lake or pond or other source of water supply shall be drawn on a longitudinal scale of not less than one inch to two hundred feet, and for cross sections on a scale of not less than one inch to twenty feet, and shall show what material is intended to be used or placed in such work.

Timber, brush, stone or other material, except earth used in such works, shall be shown in detail on the plan, the scale of which shall not be less than one inch to four feet.

The maps of all proposed reservoirs shall show the surface of the ground under water and a sufficient number of lines of level shall be shown so that the contents of the reservoir or basin may be approximately determined.

If a level shall be shown by contour lines, they shall be on a scale sufficiently large to show vertical levels not exceeding five feet, and with all such reservoir plans there shall be furnished a plan on a scale of not less than one inch to four feet, showing the method of providing a wasteway for such reservoir, and the method of drawing off the water from such reservoir or basin.

If the State Irrigation Engineer deems it necessary, he may require the submission of complete plans and specifications for his approval. He may also require the filing of field notes of canal and reservoir surveyors.

Sec. 26. Upon it being made to appear to the satisfaction of the Board of

Water Control that an appropriation has been perfected in accordance with such application, and the endorsement made thereon by the State Irrigation Engineer, it shall be the duty of the Board of Water Control, by the hand of its President, attested under the seal of its Secretary, to send to the county clerk a certificate of the same character as that described in Section 60, which said certificate shall be recorded in the office of the county clerk, as provided in said section.

Sec. 27. The priority of such appropriation shall date from the filing of the original application in the State Irrigation Engineer's office.

Headgates and Measuring Devices.

Sec. 28. The owner or owners of any ditch or canal shall maintain, to the satisfaction of the Division Superintendent of the Water Division in which the irrigation works are located, a substantial headgate at the point where the water is diverted, which shall be of such construction that it can be locked and kept closed by the Water Commissioner, and such owner shall construct and maintain when required by the Division Superintendent, flumes or other measuring devices, at such points along such ditch to be designated by the Division Superintendent as may be necessary for the purpose of assisting the Water Commissioner in determining the amount of water diverted or to be diverted, into such ditch from the stream or other source, or taken from the ditch by the various users; and every owner or manager of a reservoir located across or upon the bed of a natural stream shall be required to construct and maintain, when notified so to do by the Division Superintendent, a flume or measuring device of a plan to be approved by the State Irrigation Engineer, below such reservoir, at a point not to exceed six hundred feet distant therefrom, and a flume or measuring device above such reservoir on each and every stream or source of supply discharging into such reservoir, for the purpose of assisting the Water Commissioner or Superintendent in determining the amount of water to which prior appropriators are entitled, and thereafter diverting it for such prior appropriators' use.

When it becomes necessary, for the protection of other water users, the Division Superintendent shall have authority to require flumes to be installed along the line of any ditch. If any such owner or owners of irrigation works shall refuse or neglect to construct and

put in or maintain such headgates, flumes or measuring devices after ten days' notice to do so by the Division Superintendent, it shall be the duty of the Water Commissioner of the district in which such headgate is located, on order from the Division Superintendent, to close such ditch to the passage of water, and the same shall not be opened, or any water diverted from the source of supply, under the penalties prescribed by law for the opening of headgates lawfully closed, until the requirements of the Division Superintendent as to such headgates, flumes or measuring device have been complied with, and if any owner or manager of a reservoir located across the bed of a natural stream shall neglect or refuse to put in such measuring device after ten days' notice to do so by the Division Superintendent, the Water Commissioner shall open the sluice gate or outlet of such reservoir and the same shall not be closed under penalties of the law for changing or interfering with headgates, until the requirements of the Division Superintendent as to such measuring devices are complied with.

Right Limited to Beneficial Use.

Sec. 29. Rights to the use of water shall be limited and restricted to so much thereof as may be necessarily used for irrigation or other beneficial purposes, as aforesaid, irrespective of the carrying capacity of the ditch, and all the balance of the water not so appropriated shall be allowed to run in the natural stream from which such ditch draws its supply of water, and shall not be considered as having been appropriated, and in case the owner or owners of any such ditch, canal or reservoir shall fail to use the water therefrom for irrigation or other beneficial purposes during any three successive years they shall be considered as having abandoned the same and shall forfeit all water rights, easements and privileges appurtenant thereto, and the water formerly appropriated by them may again be appropriated for irrigation or other beneficial uses the same as if such ditch, canal or reservoir had never been constructed; neither shall the owner or owners of such ditch, canal or reservoir have any right to receive from others any royalty for the use of water carried thereby, but every such owner or owners having a surplus of water and furnishing the same to others from any ditch, canal or reservoir, as herein provided, shall be considered a common carrier and shall be subject to the laws that govern common carriers,

and the rates to be charged may be fixed by the Board of Water Control in all respects as nearly as may be in the method prescribed by the laws of this State for fixing the rates or charges of common carriers.

Standard of Measure.

Sec. 30. A cubic foot of water per second of time shall be the legal standard for the measurement of water in this State, both for the purpose of determining the flow of water in streams and for the purpose of distributing water for beneficial uses. The standard of measure for the static volume of water shall be the acre foot.

Sec. 31. Whenever the owner, manager or lessee of a reservoir constructed upon any stream or other water course shall desire to use the bed of the stream or other water course for the purpose of carrying stored or impounded water from the reservoir to the consumer thereof, he shall in writing notify the water commissioner of the district in which the stored or impounded water is to be used, giving the date when it is proposed to discharge water from such reservoir, its volume in acre feet and the names of all persons and ditches entitled to its use. It shall then be the duty of such water commissioner to close, or so adjust the headgates of all ditches of appropriators from a stream or water course not entitled to the use of such water as will enable those having the right to sole use to secure the volume to which they are entitled.

Right to Suspend Use of Water.

Sec. 32. Whenever, by the terms of this statute, any duty is made incumbent upon any owner, manager or lessee of any irrigating work, reservoir, ditch or canal, or upon any user or appropriator of water, and such person shall fail to perform such duty, the Board of Water Control shall be and is authorized to prescribe rules for suspending or discontinuing service of water to such person until such duty is complied with.

Division Superintendents.

Sec. 33. There shall be one superintendent for each of the four water divisions of this State, who shall be appointed by the Governor, with the advice and consent of the Senate, who shall hold his office for a term of two years and until his successor is appointed and shall have qualified, and who shall be a resident of the water division for which he is appointed. The State Irrigation Engineer shall from time to time con-

duct examinations for candidates for the position of division superintendent, and a list of those whom such engineer shall deem qualified shall be filed in the office of the Secretary of State for the use of the Governor. The examination shall consist of questions relative to the irrigation laws and their administration, the measurement of flowing water, evaporation, seepage, and common alkalies, drainage and the hydrographic features of the water division in which the candidate may reside.

Sec. 34. Each division superintendent shall have general control over the water commissioners or other officers or agents charged with the distribution of water in the several districts within his water division. He shall, under the general supervision of the State Irrigation Engineer, execute the laws relative to water in accordance with the rights of priority of appropriation, and shall carry out the orders of the Board of Water Control adopted or approved in conformity to the laws of this State, and shall perform such other functions as may be assigned to him by the State Irrigation Engineer.

Sec. 35. Any division superintendent may be removed at any time by the Governor of the State, upon the written recommendation of the State Irrigation Engineer, which recommendation shall be filed in the office of the Secretary of State, and shall set forth the reasons moving the State Irrigation Engineer to such recommendation.

Sec. 36. Each division superintendent shall have authority to order in writing the construction of suitable ditches to carry the return waters from any ditch or lands to the main stream or proper wasteway. He shall have the authority, and it shall be his duty, to close or cause to be closed the headgate of any person, persons or corporations so ordered, until such time as said order is complied with. He shall, in the distribution of water, be governed by the provisions of law relating to water rights, but for the better discharge of his duties he shall have authority to make such other regulations to secure the equal and fair distribution of water in accordance with the rights of priority of appropriation as may in his judgment be needed in his division, provided such regulations shall not be in violation of the laws of the State or the orders of the board, but shall be merely supplementary to and necessary to enforce the provisions of the general laws, and the orders of the board.

Sec. 37. Any person, ditch company, ditch owner or corporation who may deem himself injured or discriminated

against by any such order or regulation of such division superintendent shall have the right to appeal from the same to the State Irrigation Engineer by filing with such engineer a copy of the order or regulation complained of, and a statement of the manner in which the same injuriously affects the petitioner's interest.

The State Irrigation Engineer shall, after due notice, hear whatever testimony may be brought forward by the petitioner, either orally or by affidavit, and through the division superintendent shall have power to supplement, amend, confirm or revoke the order complained of, but the order of the division superintendent shall remain in full force and effect until supplemented, amended, confirmed or revoked by such engineer.

Sec. 38. All water commissioners shall make reports whenever called upon to do so by the division superintendent of their division. Said reports shall contain the following information:

The amount of water actually coming into the district in ditches, canals and reservoirs.

Whether such supply is increasing or decreasing.

What ditches, canals or reservoirs are without their proper supply, and such other and further information as the division superintendent in that division may require.

Sec. 39. Each division superintendent of a water division shall receive a salary of twenty-four hundred (\$2400) dollars per year, payable in monthly installments, in full compensation for his services, and shall in addition thereto be paid his actual traveling expenses when called away from home in the performance of his duties. Such superintendents shall not engage in any business which will conflict with their duties as such superintendents, nor shall they be interested directly nor indirectly in the use of the waters under their jurisdiction or in the ownership or construction of irrigation works in their divisions.

Sec. 40. Before entering upon the duties of his office, each division superintendent shall take the oath required by the Constitution, and shall file with the Secretary of State said oath and his official bond in the penal sum of twenty-five hundred (\$2500) dollars, with not less than two personal sureties or with one surety and guaranty company authorized to do business in this State, under the laws of this State, such bond to be approved by the Governor of the State, and conditioned for the faithful discharge of the duties of his office.

Board of Water Control.

Sec. 41. There is hereby constituted a Board of Water Control, to be composed of the State Irrigation Engineer, and of the superintendents of the four water divisions. Said board shall have an office with the State Irrigation Engineer at the Capitol, and shall hold two meetings in each year for the transaction of such business as may come before it. Said meetings shall be held the second Tuesdays in March and October, respectively. The State Irrigation Engineer shall be ex-officio president of said board, and shall have the right to vote on all questions coming before it, and a majority of all the members of said board shall constitute a quorum to transact business.

The State Irrigation Engineer shall be authorized, with the consent and approval of the Governor, to convene said board in special session at other times or other places, by giving written notice of such call twenty days before the date of such meeting.

Sec. 42. The State Board of Water Control shall have authority, with power of removal, to appoint a secretary, who shall receive a salary from the State of fifteen hundred (\$1500) dollars per annum, payable in monthly installments by the State Treasurer, upon warrants drawn by the State Comptroller and approved by the State Irrigation Engineer, and he may be required by the board in its discretion to furnish such bond as it may deem necessary for the faithful performance of his duties.

The duties of the secretary shall, under the direction of the president of the board, consist in keeping full, true and complete record of the transactions of the Board of Water Control, and he shall certify under seal all certificates of appropriation made according to law. He shall perform such other duties and make and preserve such other records as may be required of him by the board.

Sec. 43. The Board of Water Control shall provide itself with a seal, the form and design of which shall be prescribed by the board.

Adjudication of Water Rights.

Sec. 44. It shall be the duty of the Board of Water Control at its first meeting to make arrangements for beginning the determination of the priorities of right to the use of the waters of the State, and such determination shall begin on the streams most used for irrigation and other purposes, and shall be continued as rapidly as practicable

until all claims for appropriation shall have been adjudicated.

Sec. 45. The board shall decide at their first meeting the streams to be first adjudicated and shall fix the time and place for beginning of the taking of testimony and the making of such examinations as will enable them to determine the rights of the various claimants and appropriators.

Notice of Hearings.

Sec. 46. The said board shall prepare a notice setting forth the date when the State Irrigation Engineer or his assistant will begin the measurement of a stream and of the ditches diverting water therefrom, and the place and the day certain when the superintendent of the water division in which the stream to be adjudicated, or any portion thereof, is situated, shall begin the taking of testimony as to the rights of parties claiming the use of water therefrom. Such notice shall be published once a week for two successive weeks, in some newspaper having a general circulation in each county abutting upon or traversed by the stream or other water course to be adjudicated, and any county in which there may be appropriators of water from such stream, the second publication of which notice shall be made at least twenty days prior to the date set for the beginning of taking testimony by the division superintendent, or for the measurement of the stream by the State Irrigation Engineer, or his assistant, provided that if there be no newspaper published in any such county, said notice may be published by posting a copy thereof at three public places in such county, provided further that in addition to the published notice above provided for, a written copy of such notice shall be served upon all appropriators by the delivery of a written copy thereof to such appropriator, his agent, tenant or lessee, or by posting a copy of such notice at the point of diversion where such appropriator takes out or receives his water, and such notice may be made by any person competent to make oath, who shall file with the division superintendent his affidavit showing the delivery or posting of such notice. The superintendent or other official taking such testimony shall have the power to adjourn the taking of evidence from time to time or from place to place, provided due regard shall be had to the proper convenience of the persons interested in the determination of such priorities and appropriations.

When any stream to be measured or adjudicated shall traverse more than one

water division, then the final hearings shall be heard before the superintendents of such water divisions sitting jointly, and the adjudication and decision when made as herein provided shall be binding on all claimants and appropriators upon any part of such stream in this State, unless reversed on appeal as herein provided; provided, further, that the superintendent shall hold a hearing in each county in his division in which there may be situated claimants or appropriators of water upon any such stream.

Sec. 46. All bills for the printing and service of notices to claimants of water in the adjudication provided for herein, shall be paid for by the county in which such publication or other service is made, the said bills to be approved by the superintendent of the water division in which the adjudication is made and certified to the commissioners court of such county.

Sec. 47. The State Irrigation Engineer shall transmit or deliver to the county judge of each county through which any stream passes, upon which adjudication is to be made, sufficient copies of a blank form for the use of water right claimants, upon which form every such claim shall be presented in writing to the superintendent of the water division, or mailed to the secretary of the Board of Water Control at Austin, Texas, showing the amounts and dates of appropriations of the use of the water of said stream to which he lays claim, the said statement to include the following:

The name and postoffice address of the claimant; the nature of the use on which the claim for appropriation is based; the time of the commencement of such use and whether distributing works are needed or required; the date of beginning the survey, if one is designed to be made; the date of the beginning of construction; the date when completed, or to be completed; the date of beginning and completing of enlargements; the dimensions of the ditch as originally constructed and as enlarged; the date when water was first used for irrigation, or other beneficial purposes, and, if used for irrigation, the amount of land reclaimed the first year; the amount used in all subsequent years, as near as may be, with the dates of reclamation, and the amount of land such ditch is capable of irrigating; the character of the soil and the kind of crops cultivated, and such other facts as may be prescribed by the Board of Water Control, or as will show a compliance with the law in acquiring the appropriation and the rank of priority claimed.

Sec. 49. Each of said claimants shall

be required to certify to his statements under oath, and the superintendent of the water division in which the testimony is taken is hereby authorized to administer such oaths, which shall be done without charge to the claimant, as shall also the furnishing of blank forms for such statement.

Sec. 50. Upon the date named in the notice provided for in the preceding sections, the division superintendent shall begin the taking of said testimony, and shall continue until said testimony shall be completed, provided that in case the division superintendent of any water division is prevented by illness or other disability from the taking of such proofs, the taking of evidence, so far as relates to said stream, shall be under the direction of the division superintendent of the next nearest water division, or under the direct personal supervision of the State Irrigation Engineer, as may be deemed by the State Irrigation Engineer most expedient, provided that in the taking of proofs of appropriation of water made under a permit issued by the State Irrigation Engineer such permits having been issued subsequent to the adjudication of the waters of the stream from which the appropriation is made, the superintendent may, in his discretion, authorize the water commissioner of the district in which the appropriation is made to take such proofs.

Upon the taking of the proofs so ordered, the water commissioners shall at once forward them to the division superintendent. The water commissioner shall take no proofs except those specifically ordered by the division superintendent.

Sec. 51. Upon the completion of the taking of evidence by the division superintendent in any county, it shall be his duty to give notice in one issue of some newspaper of general circulation in such county, and if there be none, then by posting three written notices in three public places in such county that upon a certain day and at the place named in such notice all of said evidence shall be open to the inspection of the various claimants and appropriators and to the public, and said superintendent shall keep said evidence open to inspection at said place not less than one day and not more than five days.

Contests.

Sec. 52. Should any person, corporation or association of persons owning any irrigation works or claiming any interest in the stream or streams involved in the adjudication desire to contest any of the rights of the persons,

corporations or associations who have submitted their evidence to the superintendent as aforesaid, such persons, corporations or associations shall, within fifteen days after the testimony so taken shall have been open to public inspection, in writing notify the superintendent of water division in which is located said irrigation works or stream or streams, stating with reasonable certainty the grounds of the proposed contest, which statement shall be verified by the affidavit of the contestant, his agent or attorney, and the said division superintendent shall notify the said contestant and the person, corporation or association whose rights are contested, to appear before him at such convenient place and at such time as the superintendent shall designate in said notice.

Sec. 53. Said superintendent shall also fix a time both as to day and hour for the hearing of said contest, which date shall be not less than twenty nor more than forty days from the date the notice is served on the party, association or corporation, which notice may be served and return thereof made by any person competent to make oath as to the mode and manner of serving the same. Superintendents of water divisions shall have power to issue subpoenas and to compel the attendance of witnesses to testify in such hearings, which shall be served in the same manner as subpoenas issued out of the district courts of the State. They shall have the power to compel such witnesses to subpoenaed to testify and give evidence in said matter, and if such witnesses shall fail to appear or refuse to testify when so summoned, said superintendent shall certify such failure or refusal to the district court in such county, and the district court may punish the offender in the same manner and to the same extent that such court may punish for a contempt committed not in the presence of the court. Said witnesses shall receive the same fees as in civil cases, to be paid by the party or parties against who the contest shall be finally determined. The evidence in such proceedings shall be confined to the subject enumerated in the notice of contest.

Cost of Contest.

Sec. 54. The superintendent shall require a deposit of ten (\$10) dollars from each party for each day he shall be so engaged in taking evidence on said contest. Upon the final determination and the adjudication of the matters by the Board of Control, an order shall be entered directing that the money so

deposited shall be refunded to the persons, associations or corporations in whose favor such contest shall be determined, and that all moneys deposited by other parties therein shall be turned over by the superintendent into the general fund, in the State Treasury.

Sec. 55. Upon the completion of the evidence in the original hearing before the superintendent and of the evidence taken in all contests, it shall be his duty to transmit the documentary evidence in said adjudication to the office of the Board of Control in person or by registered mail.

Sec. 56. It shall be the duty of the State Irrigation Engineer, or of some qualified assistant to proceed at the time specified in the notice to the parties on said stream, to be adjudicated, to make an examination of said stream and of the works diverting water from said stream, and of the carrying capacity of the various ditches and canals diverting water therefrom; an examination of the irrigated lands and an approximate measurement of the lands irrigated, or susceptible to irrigation from the various ditches and canals, which said observation and measurements shall be reduced to writing and made a matter of record in his office. And it shall be the duty of the State Irrigation Engineer to make, or cause to be made, a map or plat on a scale of not less than one inch to the mile, showing with substantial accuracy the course of said stream, the location of each ditch or canal diverting water therefrom, and the legal subdivisions of the lands which have been irrigated, or which are susceptible of irrigation from the ditches and canals already constructed.

Order of Adjudication.

Sec. 59. At the first regular meeting of the Board of Water Control after the completion of such measurement by the State Irrigation Engineer and the return of said evidence by said Division superintendent, it shall be the duty of the Board of Control to make and cause to be entered of record in its office an order determining and establishing the several priorities of right to the use of waters of said stream and the amounts of appropriations of the several persons claiming water from such stream, and the character and kind of use for which said appropriation shall be found to have been made. Each appropriation shall be determined in its priority and amount by the time at which it shall have been made and the amount of

water which shall have been applied to beneficial uses, provided that such appropriator shall at no time be entitled to the use of more water than he can make beneficial application of on the lands for the benefit of which the appropriation may have been secured, and the amount of an appropriation made by reason of any enlargement of distributing works shall be determined in like manner.

Certificate of Water Right.

Sec. 60. As soon as practicable after the determination of the priorities of appropriation to the use of waters of any stream, it shall be the duty of the Secretary of the Board of Control to issue to each person, association or corporation represented in such determination a certificate to be signed by the State Irrigation Engineer, as President of the Board of Water Control, and attested under seal by the Secretary of said board, setting forth the name and postoffice address of the appropriator, the priority date and number of such appropriation, the amount of water appropriated and if such appropriation be for irrigation, a description of the land to which said water is to be applied. Such certificate shall be presented by said State Irrigation Engineer, or by a member of the Board of Control, in person or by registered mail, to the county clerk of the county in which such appropriation shall have been made, and it shall be the duty of the county clerk, upon receipt of a recording fee (which fee shall be \$1) to record the same in a book especially prepared and kept for that purpose, and thereupon deliver such certificates upon demand to the respective appropriators, provided said clerk shall not be required to file or record such certificate until a fee of \$1 shall have been tendered him.

Appeal.

Sec. 61. Any party or any number of parties, acting jointly, who may feel themselves aggrieved by the determination of the Board of Control may have an appeal from the Board of Control of the district court of the county in which his appropriation has been made, or is claimed to have been made. All persons joining in the appeal shall be joined as appellants and all persons having interests adverse to the parties appealing, or any of them, shall be joined as appellees.

Sec. 62. The party or parties appealing shall, within sixty days of the deter-

mination of the Board of Water Control which is appealed from and the entry thereof in the records of the board, file in the district court to which the appeal is taken a notice in writing stating that such party or parties appeal to such district court from the determination and order of the Board of Control, and upon the filing of such notice the appeal shall be deemed to have been perfected, provided, however, that the party or parties appealing shall within the sixty days mentioned enter into an undertaking to be approved by the district clerk, to be made payable to all the parties in said suit or proceeding other than the parties appealing, and to be in such an amount as the district clerk shall fix, conditioned that the parties giving their said undertaking shall prosecute their appeal to effect, and pay all costs and damages which may be adjudged against them, or either, or any of them.

Clerk to Transmit Notice of Appeal.

Sec. 63. The clerk of the district court shall, immediately upon filing of said notice of appeal, and the approval of the bond mentioned in the preceding section, transmit to the secretary of the Board of Water Control a notice, over the seal of the court, to the effect that said appeal has been perfected, which notice shall be entered of record by the secretary in the records of the board, and the appellant or appellants shall cause a certified copy thereof to be served on each of the appellees, the same to be served in the manner provided for other process issuing out of the district court.

Transcript.

Sec. 64. The appellant or appellants shall, within ninety days after the appeal is perfected as provided for, file in the office of the clerk of the district court a certified transcript of the order of determination made by the Board of Water Control, and which order is appealed from, together with a certified copy of all the records of the Board of Water Control relating to such determination, and the originals or certified copies of all documentary evidence offered before the Board of Water Control, including the measurements of streams, tributaries and ditches, together with a petition setting out the cause of complaint of the party or parties appealing, of which petition all parties joined as appellees shall be served with notice by the issuance of process out of the office of the clerk of the district

court within the time and in the manner provided by law for the issuance of process in civil suits.

Sec. 65. When any appeal to the district court shall have been perfected, as provided for in the preceding sections, a trial de novo shall be held in the district court, and the practice in the district court and the pleadings therein shall follow as near as may be the procedure provided by law in appeals in probate cases from the county to the district courts.

Judgment on Appeal.

Sec. 66. It shall be the duty of the clerk of the district court, immediately upon the entry of any judgment, order or decree by the district court in an appeal from the decision of the Board of Water Control, to transmit a certified copy of said judgment, order or decree to the secretary of the Board of Water Control. It shall be the duty of the secretary to immediately enter the same upon the records of his office, and the State Irrigation Engineer shall forthwith issue to the superintendent or superintendents of water divisions, instructions in compliance with said judgment, order or decree and in execution thereof.

Sec. 67. All costs made and accruing by reason of such appeal shall be adjudged to be paid by the party or parties against whom such appeal shall be finally determined. During the time an appeal from an order of the Board of Water Control is pending in the district court, and until a certified copy of the judgment, order or decree of the district court is presented to the State Irrigation Engineer, the diversion of water from the stream involved in such appeal shall be made in accordance with the order of the Board of Water Control. At any time after the appeal has been perfected, if the order of the Board of Water Control has been adverse to an actual existing use of water and in favor of a different use, the appellant or appellants may stay the operation of so much of said decree appealed from as changes such existing use to a different use, by filing a bond in the district court wherein such appeal is pending, in such amount as the judge thereof may designate, conditioned that the appellant will pay all damages that may accrue to the appellees by reason of such order or decree not being enforced should the proceedings on appeal be decided against the appellant, and immediately upon the filing and approving of such bond to stay the operations of such decree, the clerk of the district court shall transmit to

the secretary of the Board of Water Control a notice over the seal of the court, to the effect that such bond has been filed and that the operations of such decree are stayed, in whole or in part, as the case may be, during the pendency of such appeal. This notice shall be recorded in the records of the Board of Water Control, and the State Irrigation Engineer shall immediately give proper notice to the superintendent of the water division wherein such appeal may have been taken.

Sec. 68. When an appeal shall have been taken, as is herein provided, from the Board of Water Control to a district court of this State, such cause in the district court shall have precedence over other civil cases, not entitled to a like precedence, and if an appeal be taken from a judgment or decree of a district court to a Court of Civil Appeals, or from thence to the Supreme Court, such case shall have like precedence.

Sec. 69. The members of the Board of Water Control shall be authorized to administer oaths in all cases where it may be necessary in the performance of their official duties.

Fees for Certified Copies.

Sec. 70. The secretary of the Board of Water Control shall collect the following fees, which shall be paid in advance and shall be turned over to the State Treasurer:

For making certified transcripts of records of the Board of Water Control, or of papers or documents filed with said board—\$1 for the first folio and 15 cents for each additional folio, including the certificate.

Order of Adjudication Res Adjudicata.

Sec. 71. The final orders or decrees of the State Board of Water Control in the proceedings provided by law for the adjudication and determination of rights to the use of waters of the State, shall be conclusive on the subject of prior appropriation and upon the rights of all existing claimants or appropriators upon the stream or other body of water embraced in such adjudication, provided, however, that where an appeal shall have been taken from the decision of the Board of Water Control to the courts of the State, as hereinbefore provided, the final decree of such board shall conform to the order of the court.

Appropriators Must Appear or Forfeit Rights.

Sec. 72. Whenever the Board of Water Control shall, as provided by law, and

after the publication of notice as hereinbefore provided, proceed to adjudicate and determine the rights of the various claimants to the use of water upon any stream or other body of water, it shall be the duty of all claimants interested in such stream or other body of water to appear and submit proof of their respective claims or appropriations, at the time and in the manner required by law, and by said published notice to the Board of Water Control, or to the State Irrigation Engineer, or to the division superintendent, as provided by law, and any claimant who shall fail to appear in such proceedings and submit proof of his claim or appropriation, shall be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream or other body of water embraced in such adjudication, and shall be held to have forfeited all rights to the use of said stream, theretofore claimed by him, provided that any person claiming the right to the use of the water of any stream adjudicated by the Board of Water Control, who having been, or claiming to have been, at the time of such adjudication, an appropriator therefrom, shall have failed to appear and submit proof of his claim, shall be permitted within one year after the entry of such order of adjudication, but not thereafter, to apply for a hearing and an adjudication of his rights in the manner herein provided, provided further that no other service shall have been made upon such claimant than by publication in a newspaper of the notice of such proceedings and of the taking of testimony, but before the decree of the board can be opened in such case, such applicant shall give notice to all other persons interested in the water of the stream or other body of water in question, and shall with his petition file the same kind of proof as required of claimants in the original hearings, and shall make it appear to the satisfaction of the board that during the pendency of the proceedings he had no actual notice thereof in time to appear and make proof of his claim, and all other parties interested may present affidavits as to the matter of actual notice to such applicant.

Sec. 73. Whenever the rights to the use of the waters of any stream and all its tributaries within the State have been adjudicated as provided by law, and it shall appear by the records of such adjudication that the question of water rights on all of said streams has not been heard at one and the same proceeding, then in such case the Board of Water Control shall be, and is hereby,

authorized to give notice of the opening to public inspection of all proofs or evidences of appropriation of water, and the findings of the board in relation thereto, from the stream and its tributaries, in the manner and according to the provisions of Section 51, and any persons, corporations or associations who may desire to contest the claims or rights of other persons, corporations or associations as set forth in the proofs or established by the board, shall proceed in the manner provided for in Sections 52, 53, 54, provided that contest may not be entered into and shall not be maintained except between appropriators who are not parties to the same adjudication proceedings in the original hearings.

Evidence to Be Transmitted to Board.

Sec. 74. Upon the completion of the taking of evidence in contests initiated under the provisions of this law, it shall be the duty of the superintendent to transmit all documentary evidence and any testimony which may have been reduced to writing to the office of the Board of Control, in person or by registered mail, and the action of said board in relation thereto shall be governed by the provisions of law applicable to contests in original adjudication proceedings, provided that if, as a result of any such contest, it shall be necessary to cancel any final certificate theretofore issued by said board and to issue a new certificate in accordance with the findings of the board, such certificate shall be issued without cost to the person entitled to it other than is incident to the recording of such certificate in the office of the county clerk.

District Clerks to Transmit Copies of Judgments.

Sec. 75. It shall be the duty of the clerk of any district court in the State of Texas, upon the rendition of any judgment in his court, in each and every case wherein is involved in any way any question affecting the title to any water right, irrigation or water system of any kind whatever, to forthwith transmit to the office of the Board of Water Control a certified copy of such judgment or decree.

Certified Copies.

Sec. 76. Copies of papers, books, records and maps, on file and deposited by virtue of any law in the office of the State Irrigation Engineer, or of the Board of Water Control, and certified by the State Irrigation Engineer, or by the

secretary of the Board of Water Control, shall be admissible in evidence in the courts of this State in the same manner, and shall have the same force and effect, as the originals would have been entitled to if produced.

Special Assistant Engineer.

Sec. 77. If as many as twenty (20) claimants or appropriators of water from any stream or other source of supply in this State shall desire a measurement of the water supply and an adjudication of the water rights on such stream, or other source of supply, before the Board of Water Control shall be ready to take up the measurement and adjudication of such stream in the due course of the discharge of their duties, they may file with the State Irrigation Engineer a petition setting forth the facts and the reasons why the specified measurement and adjudication on such stream or other source of supply is desired. Upon the filing of such petition, the State Irrigation Engineer, with the written consent and approval of the Governor of this State, shall have the right to designate a special assistant engineer to act with the superintendent of such water division in making the necessary measurement and adjudication, provided the petitioners shall deposit with the State Irrigation Engineer the estimated amount of the expense of making such measurement and adjudication, including the compensation to be allowed such special assistant engineer, and the compensation so to be allowed such special assistant engineer shall be fixed by the State Irrigation Engineer, with the consent and approval of the Governor, and stated in the order appointing such special assistant engineer. No person shall be eligible to such appointment who has or claims any interest in the waters of such stream or any irrigation works thereon. Before such special assistant engineer shall enter on the discharge of his duties, he shall take the oath of office prescribed by the Constitution, and shall enter into bond to the Governor of the State and to his successors in office in the sum of five thousand (\$5000) dollars, conditioned for the faithful performance of his duties, which oath and bond shall be deposited with the Secretary of State. After such special assistant engineer shall have qualified, as aforesaid, he shall be authorized, under the direction and supervision of the State Irrigation Engineer, to perform, in relation to the stream or other source of supply with regard to which his appointment has been made, the duties herein

devolved upon the State Irrigation Engineer, and, with the consent and approval of the superintendent of the water division in which such adjudication is to be made, may sit either with the superintendent of such water division or alone, to hear evidence concerning priorities of appropriation and the adjudication of water rights on such stream or other source of supply, and shall have the same rights, duties, privileges and authority in that particular case, as near as may be, as are herein conferred upon such superintendent of such water division.

Water Districts.

Sec. 78. Each organized county in this State, now existing or hereafter organized, shall constitute a water district, provided that no water commissioner shall be appointed for any such district until the commissioners court of such county shall, by resolution duly entered in the minutes of such court, call upon the Governor to appoint such a water commissioner. At the same time that such board of county commissioners shall call upon the Governor for the appointment of a water commissioner for their district, such commissioners court shall, by resolution, fix the salary or compensation to be paid such commissioner, which shall in no case exceed one hundred and twenty-five (\$125) dollars per month, and actual traveling expenses, and the compensation and traveling expenses of such commissioner shall be paid by such county in the mode and manner that may be provided by the commissioners court. As soon as the commissioners court shall have acted upon any such resolution, a certified copy thereof shall be forthwith transmitted to the secretary of the Board of Water Control by the clerk of the county court of such county.

Water Commissioners.

Sec. 79. There shall be appointed by the Governor one water commissioner for each water district, after the commissioners court shall have acted as in the last preceding section set forth, provided any such appointee shall be selected from among the persons certified to the Governor in writing by the superintendent of the water division in which such district is situated, and such appointee shall be a resident of the county in which he is appointed. Each commissioner shall hold his office until his successor is appointed and shall have qualified, and the Governor shall, by like selection and appointment, fill all vacancies

which shall occur in the office of water commissioner, and may at any time remove any water commissioner, filing his reasons therefor with the secretary of the Board of Water Control, provided that before entering upon the discharge of the duties of his office, such water commissioner shall take the oath of office prescribed by the Constitution, and shall enter into bond, with at least two personal sureties, or with one surety or guaranty company authorized to do business in this State, payable to the county judge of such county, and to his successors in office, in the penal sum of twenty-five hundred (\$2500) dollars, conditioned for the faithful performance of the duties of his office.

Sec. 80. It shall be the duty of such water commissioner to divide the water of the streams, or other water sources of his district, among the several ditches and reservoirs entitled to water therefrom, according to the prior right of each, respectively, and to shut and fasten, or cause to be shut and fastened, the headgates of ditches and he shall regulate, or cause to be regulated, the controlling works or reservoirs in times of scarcity of water as may be necessary by reason of the priorities of right existing upon said streams or other sources of supply of his district. Such water commissioner shall have authority to regulate the distribution of water among the various users under any partnership ditch or reservoir, where rights have been adjudicated, in accordance with the existing decrees. Whenever, in the pursuance of his duties, the water commissioner regulates a headgate of a ditch, or the controlling works of reservoirs, it shall be his duty to attach to such headgate or controlling works a written notice, properly dated and signed, setting forth the fact that such headgate or controlling works has been properly regulated and is wholly under his control, and such notice shall be legal notice to all parties interested in the division and distribution of the waters of such ditch or reservoir.

County Attorney to Represent Commissioner.

Sec. 81. It shall be the duty of the county attorney to appear and defend the division superintendent, or any water commissioner who shall be made defendant in any case which may arise in the pursuance of the official duties of such official within the county of such prosecuting attorney.

Sec. 82. Said water commissioner shall, as near as may be, divide, regulate and control the use of the water of all streams within his district, by such closing, or partial closing, of the headgates as will prevent the waste of water or its use in excess of the volume to which the appropriator is lawfully entitled, and any person who may be injured by the action of any water commissioner, or by his failure to act pursuant to this act, shall have the right to appeal to the division superintendent, and from the division superintendent the party aggrieved may appeal to the State Irrigation Engineer, and from the decision of the State Irrigation Engineer in said matter an appeal may be had to the district court of the county wherein the ditch or ditches over which the controversy arises are situated; provided, however, that the decision of such water commissioner, or other authority appealed from, shall remain in full force and effect pending such decision, until reversed or altered by the authority to which such appeal shall have been taken.

Sec. 83. The board of county commissioners of any county shall have the power to authorize the water commissioner to employ suitable assistants to aid him in the discharge of his duties, but such assistants shall have no authority except such as may be delegated to them by the water commissioner, and the water commissioner shall be in all things responsible for the action of his assistants, provided such assistants shall receive such compensation as may be allowed by the county commissioners, provided that the term of service of such assistants, and their rate of compensation per day, shall be stated by the commissioners court in the order or resolution authorizing their appointment.

Sec. 84. The superintendent of any water division may, under any condition, call upon any water commissioner for work within his district, whenever the necessity therefor may, in the judgment of the superintendent, arise.

Water Users May Rotate.

Sec. 85. To bring about a more economical use of water, it shall be lawful for water users owning lands to which are attached water rights, under the supervision of the water commissioner, to rotate in the use of the supply to which they may be collectively entitled, or a single water user having lands to which water rights of a dif-

ferent priority attach. may, under like supervision, in like manner, rotate in use, when such rotation can be made without injury to lands enjoying an earlier priority.

Title to Irrigation Works.

Sec. 86. Unless the owners of ditches, canals or reservoirs make a record, as herein provided, or have a record thereof made in some other public manner, showing the relative ownership of each interested party in such irrigation works, said interests shall be deemed established by the ratio between the water right of each water user and the total water rights adjudicated under such irrigation works. The respective interests of joint owners shall therefore be fixed by the issuance of the final certificates of appropriation, as the same appear of record in the office of the Board of Water Control and in the offices of the respective county clerks and no action for the recovery of title to any such irrigation work shall be brought after five years from the date when the final certificates of appropriation have been recorded in the office of said county clerk; provided, that during such five years the interested water users, named in the final certificates of appropriation, or their successors or assigns, have had continuous, open, adverse and peaceable possession of such irrigation works.

Conveyances—How Made.

Sec. 87. Every conveyance of a ditch, canal, or reservoir, or any interest therein, shall hereafter be executed and acknowledged in the same manner as the conveyance of real estate, and recorded in the deed records of the county or counties in which such ditch, canal or reservoir is situated, and any such conveyance which shall not be made in conformity with the provisions of this act shall be null and void as against subsequent purchasers thereof in good faith and for a valuable consideration.

Affidavit of Ownership.

Sec. 88. Any person, persons, partnership or association of individuals or corporation may file in the office of the Board of Water Control and in the office of the county clerk of the county or counties wherein any ditch, reservoir or other irrigation works shall be located, an affidavit duly sworn to before an official authorized to administer oaths, or

before any water superintendent of this State, joined in, signed and sworn to by all the parties having an interest in such ditch or ditch right or such reservoir or other irrigation works, or by the guardian of any such person, if insane or a minor, or, in case of a corporation, by any two of its officers, stating therein the name of the ditch, the ownership of said ditch, the interest each claimant owns therein specifically, the method of securing rights of way or irrigation works and the date of such procedure and referring to the records of the office of the State Irrigation Engineer, or Board of Water Control, or both, relative to the dimensions of such works, their location and adjudicated rights of water conveyed in or stored in such works and such other information as may be deemed necessary.

Sec. 89. When said affidavit hereinbefore mentioned has been duly executed and filed and recorded, as hereinbefore prescribed, the facts therein stated shall be prima facie evidence of the truth thereof in any and all courts, and no action for the recovery of the title or possession of such irrigation works shall be brought after five years from the date of the recording of such affidavit in the office of the county clerk, provided that during such five years the claimant or claimants as mentioned in such affidavit, or their successors or assigns, have had continuous, open, adverse and undisputed possession of such irrigation works.

Bona Fide Purchasers.

Sec. 90. Any transfer made to a purchaser in good faith and for a valuable consideration of any such irrigation works after the expiration of five years from the filing of such affidavit, as hereinbefore provided, shall vest in the grantee of such transfer an absolute title in fee simple free from the claims of any person whomsoever, to the extent that such irrigation works are claimed in the said affidavit of such grantor or his predecessor in interest, unless, before the expiration of such five years, any other party claiming an interest in such irrigation works has filed in the office of the county clerk of the county wherein the land of such claimant irrigated by such ditch may be situated, an affidavit of like character as is provided for in Section 88.

Penalty for False Swearing.

Sec. 91. Any person who shall knowingly swear falsely as to any ownership or interest in any such irrigation work,

or the extent thereof, or any guardian who in like manner makes such false affidavit on behalf of his or her ward, or any person who in like manner makes such false statement on behalf of any corporation, shall be deemed guilty of false swearing and shall, upon conviction thereof, be punished as provided by law for that offense.

Action to Quiet Title.

Sec. 92. When the ownership of any irrigation works is disputed, or jointly claimed by any person, partnership or corporation, and the several owners cannot agree upon the amount of interest owned by each, and one or more claimants to such rights desires the filing of the affidavit hereinbefore provided, and other or others do not desire to join therein, one or more of such claimants may bring an action in equity in the district court of any county wherein the land or part of the land watered by such ditch is located, and said court shall determine the right of the several claimants in and to such ditch or ditch right, or reservoir, or irrigation works, and shall determine all the facts required in the affidavit hereinbefore prescribed in Section 88, and such decree shall, after being filed and recorded in the office of the county clerk of the proper county, as hereinbefore prescribed, have the same force and effect as the affidavit hereinbefore prescribed, provided that the provisions herein in relation to the ownership of any such ditch, ditch right, reservoir or other irrigation works shall not be considered to apply to water rights, or in any way to conflict with the laws of this State governing water rights.

Sec. 93. It shall be the duty of the owner or owners of any ditch or reservoir for irrigation or other purposes to carefully maintain the embankments thereof, so that the waters thereof may not flood or damage the property or premises of others.

Bridges and Culverts.

Sec. 94. When any ditch, canal or water course shall be constructed across any public highway, it shall be the duty of the person, firm, association or corporation constructing the same to forthwith construct a safe and suitable bridge across the same, which bridge shall equal in width the traveled portion of such road, and if the owner of any such ditch, canal or water course shall fail to comply with this provision, the county commissioners of the county in which said ditch, canal or water course and road are located shall have authority to fill

the same so as to permit safe travel, or such board of county commissioners may, at its discretion, construct a suitable bridge over such ditch, canal or water course, and call upon the owner or owners of such ditch, canal or water course to pay the expenses of constructing such bridge, and if payment thereof be refused, a civil action may be maintained in the name of the county for the recovery of the cost thereof, together with all accruing costs and expenses.

Fish Guards.

Sec. 95. Whenever ordered so to do by the State Irrigation Engineer, it shall be the duty of every persons, corporation or company who shall construct, maintain or operate any ditch, or canal, in this State, to construct and maintain at the point or place where the water is diverted from its natural channel, or other source, some fit and proper obstruction whereby all fish will be prevented from entering such ditch or canal. Any person, firm, association or corporation violating the provisions of this section shall be adjudged guilty of a misdemeanor, and upon conviction thereof shall be punished by any fine not less than \$10 nor more than \$100, or by imprisonment in the county jail of not less than ten (10) nor more than sixty (60) days, and each day that such ditch or canal shall remain without proper obstruction shall constitute a separate offense.

Penalty for Opening Headgates.

Sec. 96. Any person who shall willfully open, close, change or interfere with any headgate or water box without lawful authority, or who shall willfully use water or conduct water in or through his ditch or upon his land which has been lawfully denied him by the water commissioner, or other competent authority, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than ten (\$10) dollars nor more than one hundred (\$100) dollars, or by imprisonment in the county jail for a term not exceeding sixty (60) days; provided, that the possession or use of water when the same shall have been lawfully denied by the water commissioner, or other competent authority, shall be prima facie proof of the guilt of the person using or possessing it.

Peace Officers to Arrest.

Sec. 97. The water commissioners and their assistants within their dis-

tricts, as well as all sheriffs and constables within their jurisdiction, shall have the power to arrest any person or persons offending against any of the provisions of this act, and it shall be the duty of the water commissioner of such district to immediately, in writing and upon oath, make complaint before the proper court having jurisdiction of the offense against the person so arrested.

Penalty for Injuring Works.

Sec. 98. Any person or persons who may knowingly and willfully cut, dig, break down or destroy, or injure, or open any gate, bank, embankment, or side of any ditch, canal, or reservoir, flume or tunnel or feeder, which is the property of another, or in which another owns any interest, or which is in the lawful possession or use of another or others, and which is used for the purpose of irrigation, milling, manufacturing, mining or domestic purposes, or stock raising, with intent maliciously to injure any person, association or corporation, or for the gain of any person, association or corporation, so cutting, digging, breaking, injuring or opening any such gate, bank, embankment, or side of any ditch, canal or reservoir, flume or tunnel, or feeder, or with the intention of stealing, or taking, or causing to run out, or waste out of any such ditch, canal or reservoir, feeder or flume, any water for his own profit, benefit or advantage, or to the injury of any person, association or corporation lawfully entitled to the use of such water, or to the use and management of such ditch, canal, tunnel, reservoir, feeder or flume, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten (\$10) dollars, or more than one hundred (\$100) dollars, and may be imprisoned in the county jail for any term not exceeding six (6) months or by both such fine and imprisonment.

Sec. 99. Any person or persons who shall deposit in any canal, lateral, reservoir, or lake, used for any of the purposes enumerated in Section 2 of this act, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, bailing or barbed wire, earth, offal, or refuse of any character, or any other article or articles which might pollute or obstruct the flow of water in any such canal or other similar structure, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not

less than ten (\$10) dollars, nor more than one hundred (\$100) dollars, or by imprisonment in the county jail for a term not exceeding six (6) months, or by both said fine and imprisonment in the discretion of the court.

Partnership Ditches.

Sec. 100. In all cases where irrigating ditches are owned by two or more persons, and one or more of such persons shall fail or neglect to do his proportionate share of the work necessary for the proper maintenance and operation of such ditch, or to construct suitable head-gates or measuring devices at the points where water is diverted from the main ditch or elsewhere, if ordered by the division or water commissioner, such owner or owners desiring the performance of such work as is reasonably necessary to maintain the ditch, or construct or maintain such head-gate or measuring device, may, after having given ten (10) days' written notice to such joint owner or owners who have failed to perform their proportionate share of work necessary for the operation and maintenance of said ditch, head-gate or measuring device, proceed themselves to do such work or cause the same to be done, and may recover therefor from such person so failing to perform his share of such work, in any court having jurisdiction over the amount, the reasonable expense or value of such work or labor so performed.

Liens.

Sec. 101. Upon the failure of any co-owner to pay his proportionate share of such expense as mentioned in the preceding section within thirty (30) days after receiving a statement of the same as performed by his co-owners, such person or persons so performing such labor may secure payment of said claim by filing an itemized and sworn statement thereof, setting forth the date of the performance and the nature and value of the labor so performed, with the county clerk of the county wherein such work was done, and when so filed the same shall constitute a valid lien against the interest of such person who shall have failed to perform his proportionate share of the work, and said lien, when so taken, may be enforced in the same manner as provided by law for the enforcement of mechanics' and builders' liens.

Sec. 102. When two or more persons, joint owners in an irrigation ditch or reservoir, not incorporated, or their lessees are unable to agree relative to the

division or distribution of water received through their ditch, or from their reservoir, it shall be lawful for any such owner or lessee to apply to the water commissioner of the district in which such ditch or reservoir shall be located, by a written notice setting forth such fact and asking the water commissioner to take charge of such ditch or reservoir for the purpose of making a just division or distribution of the water from the same to the parties entitled to the use thereof. The said water commissioner shall thereupon take exclusive charge of such ditch or reservoir for the purpose of dividing the water therefrom, in accordance with rights established by existing decrees, and shall continue said work until the necessity therefor shall cease to exist.

Dams.

Sec. 103. Any person, firm, association or corporation intending to construct any dam across the channel of a running stream above ten (10) feet in height, or to construct any other dam which is intended to retain the water above ten (10) feet in height, shall submit to the State Irrigation Engineer for his approval, duplicate plans of such proposed dam, and it shall be unlawful to construct such dam until the said plans have been approved.

Sec. 104. The State Irrigation Engineer shall have authority to examine and inspect during construction, or at any other time thereafter, any dam across any stream, canyon, ravine or other water course, or any ditch, canal or other work carrying over fifty (50) cubic feet of water per second of time, and at the time of such inspection he may order the parties constructing or maintaining such dam or other work to make any addition or alteration which such engineer may consider necessary for the safety of the work or for the safety of any person or persons residing on or owning land in the vicinity of such works.

Eminent Domain.

Sec. 105. Whenever any person, persons, firm, association or corporation, owning or intending to construct any reservoir, ditch, canal, waste-way or other irrigation work, for the promotion of any of the purposes authorized by the act, shall have submitted his plans to the State Irrigation Engineer, as herein provided, and such plans shall have been approved by such engineer and permit therefor shall have been issued, the holder of such permit shall be authorized to take, with the written approval of the

State Irrigation Engineer, any private property which such irrigation enterprise may require for reservoir sites and for rights of way of drains, flumes, ditches, canals or waste-ways, by making just compensation to the owner or owners thereof. If the amount of such compensation cannot be agreed upon by the party or parties holding such permit and desiring such reservoir site or rights of way, on the one hand, and the owner or owners of such property, on the other hand, then the party or parties holding such permit shall file with the county judge of the county in which any such property so sought to be condemned is situated, a statement in writing describing the real estate, or property, sought to be taken, the purpose for which same is to be taken, the name of the owner thereof and his residence, if known.

Upon the filing of such statement, it shall be the duty of said county judge, in term time or vacation, to appoint three disinterested free-holders and qualified voters of such county, as special commissioners, to assess the damages to accrue to such owner or owners by reason of such proposed condemnation. The commissioners so appointed shall, in their proceedings, be governed and controlled by the laws in force in reference to condemnation for right of way for railroad companies, and the assessment of damages therefor.

The party or parties holding the permit for such irrigation, reservoir, canal or other work shall occupy the position of the railroad company, and all laws in reference to condemnation of rights of way of railroad companies, including the measure of damages, the right to appeal, and the like, shall apply to any action by the holder of such permit under this act for the condemnation of property for use as a reservoir site, or for rights of way for drains, flumes, ditches, canals or waste-ways necessary in the construction of any work authorized under the terms of this act.

Highways and Public Grounds.

Sec. 106. If it shall be necessary in the location of any part of any reservoir, drain, flume, ditch or canal, to occupy any road, street, alley or public way, or public ground of any kind, or any part thereof, belonging to any city or county, the right to the use of such public ground shall be allowed by the municipal authorities having charge thereof, under such reasonable regulations as such authorities may prescribe, provided that the right to cross any public road or highway shall not be denied except for

the most urgent public reasons, but the municipal authorities having charge of such road or highway may require the construction of suitable bridges and culverts.

Federal Reclamation Act.

Sec. 107. The provisions of this act shall in all things apply to the construction, maintenance and operation of any irrigation works in this State constructed under what is known as the Federal Reclamation Act, approved June 17, 1902, and the amendments thereto, in so far as the provisions of this act are not inconsistent with such act of Congress, or the amendments thereto, or the regulations prescribed by the Secretary of the Department of the Interior, in conformity to such reclamation act and the amendments thereto.

Johnson Grass and Russian Thistle.

Sec. 108. It shall be unlawful for any person, firm, association or corporation, owning, leasing or cultivating any lands abutting upon any irrigation reservoir, ditch, flume or canal, to permit Johnson grass or Russian thistle to go to seed upon such canal, or within five (5) feet of the high water line on either side of such ditch, flume or canal, where the same crosses or lies upon the land of such owner, lessee or cultivator, and any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be fined in any sum not less than twenty-five (\$25) dollars nor more than five hundred (\$500) dollars, or be imprisoned in the county jail not less than thirty (30) days, nor more than six (6) months, or by both such fine and imprisonment.

Sec. 109. Wherever, under the provisions of this act, an appeal shall have been taken from the decision of the State Irrigation Engineer, or from the decision of the Board of Water Control to the district court, an appeal shall lie from the decision of such district court to the Court of Civil Appeals, and a writ of error may run from the Supreme Court to such Court of Civil Appeals in like manner and under like circumstances as such appeal may lie, or writ of error run, in other civil causes.

Sec. 110. Nothing in this act contained shall be construed as a recognition of any riparian right in the owner of any lands, the title to which shall have passed out of the State of Texas subsequent to the first day of July A. D. 1895.

Flowing Artesian Wells.

Sec. 111. It shall be unlawful for any person, firm, association of persons or corporation owning, leasing, controlling or having possession of any flowing artesian well whether as owner, contractor, lessee, agent or manager, to allow or permit the flow of water from such well, except into a suitable reservoir, ditch, canal or flume for beneficial use, or into some wasteway or drain connecting with some natural water course, ravine or canyon sufficient to carry off such waste water, for a longer period than thirty (30) days next after flowing water shall have been struck in such artesian well, and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be fined in any sum not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars, or by confinement in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

Sec. 112. Whenever any person, firm or corporation, in possession or control of any artesian well from which water flows, shall fail to comply with the provisions of this act, any person, firm or corporation, lawfully in possession of such lands situated adjacent to or in the vicinity or neighborhood of such well, may enter upon the lands upon which such well is situated and take possession of such well from which water is allowed to escape in violation of the provision of Section 111, and pack, or plug, or fill such well, and shut in and prevent the flow of water therefrom, any such person, firm or corporation may maintain a suit in any court of competent jurisdiction in this State against the owner, lessee, agent or manager of said well, and each of them jointly and severally, to recover the reasonable cost and expense of such packing, plugging or filling and all costs of suit.

Corporations for Irrigation Purposes.

Sec. 113. Corporations may be formed and chartered under the provisions of this act, and of the general corporation laws of the State, for the purpose of constructing, maintaining and operating the reservoirs, canals, ditches, flumes, feeders, laterals, lakes, wells and wasteways, and of conducting and supplying water to all persons entitled to the same for irrigation, milling or mining, or to cities and towns for water works and for stock raising, and for the purpose of

storing waters for the purposes mentioned, and every corporation formed under the provisions hereof shall have power to enter upon any lands to make examination and surveys for its proposed canals, reservoirs or other works, and to acquire the same by condemnation, as hereinbefore provided.

Contracts and Liens.

Sec. 114. Every person, firm, corporation or association of persons, which has heretofore constructed or which may hereafter construct any reservoir, ditch, canal, dam, lake or other irrigation work, to supply, carry or deliver water to water users in this State, may enter into contract with the owner or owners of any lands to be irrigated therefrom, for the supply or carriage of water for irrigation or other beneficial purposes, and may take a lien upon such land to secure the payment of such charges, provided nothing in this section contained shall be held to take away or diminish the right of the State to fix or regulate such charges as hereinbefore provided; and provided further, that every such person, firm, corporation or association of persons so applying or carrying water to any water user shall, independent of contract, have a preference lien superior to every other lien upon the crop or crops raised upon the lands thus irrigated with such water.

Sec. 115. Any corporation organized under the provisions of the general laws of this State, or the provisions of this Chapter, for the purpose of irrigation, shall have the power to acquire lands by voluntary donation or purchase, or in payment of charges for the supply and delivery of water, and to hold and dispose of all such land and other property, and to borrow money for the construction, maintenance and operation of its canals, ditches, flumes, feeders, reservoirs, lakes and wells, and may issue bonds and mortgage its corporate and other property and franchises to secure the payments of any debts contracted for the same; provided, no corporation shall issue stock or bonds except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void, and provided further, that all lands acquired by said corporation, except such as are used for the construction, maintenance and operation of canals, ditches, laterals, feeders, reservoirs, dams, wasteways, lakes and wells, shall be alienated within fifteen (15) years from the date of the acquisition of said lands, or, in default

of such alienation be subject to judicial forfeiture.

Sec. 116. Where, in the examination of any irrigation or reclamation project, under the provisions of the Act of Congress known as the Reclamation Act, approved June 17, 1902, it shall be found advisable or necessary to irrigate or reclaim lands within the limits of this State, the Secretary of the Department of the Interior is authorized to make all necessary examinations and surveys for, and to locate and construct, irrigation or reclamation works within this State, and to perform any and all acts necessary to carry into effect the provisions of the Reclamation Act as to such lands, subject to all the provisions, limitations, charges, terms and conditions of said Reclamation Act.

Sec. 117. Chapters 1 and 2 of Title 73 of the Revised Civil Statutes of the State of Texas, adopted in 1911, and all other laws and parts of laws in conflict herewith, are hereby repealed.

Sec. 118. Whereas, it is necessary that irrigating canals should be built at once to afford water for irrigating purposes for the present year, therefore, an emergency exists, and imperative public necessity demands the suspension of the constitutional rule which requires a bill to be read on three separate days, and that this act take effect and be in force from and after its passage, and it is so enacted.

COMMITTEE REPORTS.

Committee Room.

Austin, Texas, January 29, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on Public Health, to whom was referred

Senate bill No. 63, A bill to be entitled "An Act to amend Section 9, Chapter 30, of the General Law of the State of Texas, passed by the Thirty-first Legislature (1909) at the Regular Session, approved April 21, 1909, relating to the Texas State Board of Health, vital statistics, and to add to said chapter Section 10a, establishing charbon districts, providing that persons residing therein shall report all animals suffering with charbon or supposed to have such disease to the county health officer, who shall report same to the State Board of Health, and providing for practicing physicians to report all persons suffering with said disease; and providing for the employment of a chemist and bac-

teriolgologist where charbon is prevalent, for the purpose of combating with said disease; and providing for the State Board of Health or one who is under them to visit all stock reported to have charbon; and providing for the isolation of same and for the isolation of all stock exposed to said disease and authority to destroy infected stock and providing for the destruction of the carcasses of stock dying from charbon or supposed to have died from same, and prohibiting certain stock from running at large between the first day of May and the first day of October in any county where charbon is prevalent or where same may become prevalent, and providing for the prohibiting of such stock in counties and subdivisions whereof charbon is prevalent, or where same may become prevalent, from running at large in such counties or subdivisions thereof, to be determined by election by the qualified voters of such counties; providing the manner of holding such elections regulating the terms and conditions thereof, and the carrying into effect of such elections so to be held; and providing adequate penalties for enforcing such law, and repealing all laws and parts of laws in conflict therewith, and declaring an emergency."

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass.

KAUFFMAN, Chairman.

Committee Room,
Austin, Texas, January 29, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 133, A bill to be entitled "An Act to amend Article 795, Title 8, Chapter 7, of the Revised Code of Criminal Procedure of 1911 of the State of Texas, so as to provide that neither husband nor wife can testify against each other in any criminal action either during the time of coverture or after divorce, except in cases where prosecution is pending for an offense committed by one against the other,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

MORROW, Chairman.

Committee Room,
Austin, Texas, January 29, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: We, a minority of your Judiciary Committee No. 1, to whom was referred

Senate bill No. 133, A bill to be entitled "An Act to amend Article 795, Title 8, Chapter 7, of the Revised Code of Criminal Procedure of 1911 of the State of Texas, so as to provide that neither husband nor wife can testify against each other in any criminal action either during the time of coverture or after divorce, except in cases where prosecution is pending for an offense committed by one against the other,"

Have had the same under consideration, and we, the minority of said committee, beg leave to report same back to the Senate with the recommendation that it do not pass.

LATTIMORE.
WILEY.

Committee Room,
Austin, Texas, January 28, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on Agriculture, to whom was referred

Senate bill No. 94, A bill to be entitled "An Act to amend Chapter 127, of the Acts of the Regular Session of the Twenty-eighth Legislature, entitled 'An Act to provide for the protection of honey bees against foul brood and other contagious diseases, and providing that all beekeepers report to the State Entomologist when infectious diseases exist; providing for collecting the expense of eradicating the disease, and fixing the charges upon the owner or agent of the bees; providing for the extermination of all contagious diseases; and providing penalties for the violation of any of the provisions of this act,' and declaring an emergency,"

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass.

ASTIN, Chairman.

Committee Room,
Austin, Texas, January 28, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on Asylums, to whom was referred

Senate bill No. 65, A bill to be entitled "An Act appropriating money to erect

new buildings at the State Insane Asylum, located at Austin, the Southwestern Insane Asylum, located at San Antonio, and the Epileptic colony, located at Abilene; and for the erection of buildings for the care and accommodation of feeble-minded children,"

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass.

REAL, Chairman.

Committee Room,
Austin, Texas, January 28, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on Asylums, to whom was referred

Senate bill No. 157, A bill to be entitled "An Act amending Chapter 1, Title 10, Articles 134, 135, 136, 142, 146, 150, 153, 155, 157, 159, 161, 163 and 165 of the Revised Civil Statutes of the State of Texas, providing for the admission of patients into, and the discharge of patients from, the Asylum, and providing for judicial proceedings in cases of lunacy, so as to make said articles applicable to habitual drunkards, and adding to said Chapter 1, Title 10, of the Revised Civil Statutes of Texas, Articles 166, 167 and 168, providing for the parole of habitual drunkards and the period of time that habitual drunkards shall be confined in the Asylum, and declaring an emergency,"

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass.

REAL, Chairman.

PETITIONS AND MEMORIALS.

By Senator Townsend:

Petition numerously signed by citizens of Houston county urging support of an amendment to the bill granting the Cotton Belt Railway Company the right to purchase other Texas railway lines, which amendment would require the Cotton Belt Company to extend the Eastern Texas Railroad to Crockett, Texas.

By Senator Murray:

Petitions numerously signed by citizens of DeWitt county, endorsing and asking passage of the bill permitting the Cuero Light and Power Company to build dams on the Guadalupe River in DeWitt county.

By Senator Gibson:

Petition numerously signed by citizens of Lamar county, Texas, asking support of Miss Adina DeZavala and her bill to preserve the Alamo intact.

By Senator Gibson:

Petition signed by members of Lamar County Farmers' Union requesting opposition to the full crew bill and the reduction of passenger fares, and similar legislation.

By Senator Lattimore:

Petition signed by numerous citizens of Hillsboro, Texas, requesting opposition to the bill making it an offense to buy liquor from a boot-legger, saying the bill would protect the boot-legger instead of promoting the cause of temperance.

By Senators Conner and Cowell:

Petitions signed by numerous citizens of their respective districts opposing legislation aimed to bar the selling from rural wagons of medicines, stock-foods, etc.

By Senator Hudspeth:

To Governor O. B. Colquitt and to the Members of the Thirty-third Legislature of Texas, Austin, Texas.

Gentlemen: The Texas Historic Landmarks Association is an association organized for the chief purpose of working for the repair, restoration and preservation of the main building of the Alamo, north of and adjoining the church.

We deem it a disgrace to Texas that this historic building has been so long neglected and that the church has so long been left to those untrained in historic matters and who, apparently, could not appreciate the importance of their position. What a valuable opportunity has been lost to gather information as to Texas history and to teach history and patriotism.

Let Texas do her duty and restore the old main building of the fort and place competent custodians in charge under the supervision of the State.

The Texas Historic Landmarks Association is composed of the descendants of the heroes, patriots and makers of Texas and other patriotic citizens, both men and women. The majority of the women are members of the original society of the Daughters of the Republic of Texas, and do not recognize nor affiliate with the organization now using that title, who are advocating the destruction of the walls of the main build-

ing of the Alamo, and the making of a park of the grounds, and who are asking for the independent custody of the Alamo.

The plan proposed by these women would suit the hotel syndicate who wish the old building destroyed, because it is in front of their property, and its destruction would mean a valuable frontage for them on the Alamo Plaza. But that plan does not suit patriotic Texans, nor patriotic persons anywhere. The Alamo belongs to Texas, primarily, but it also belongs to all America as the Thermopylae of the new world—and to yield one stone of those old walls for private interests or commercialism would bring probrium on the State of Texas and her lawmakers.

We ask you to save those old walls, to restore the old building. This was the intention of the State when the building was purchased, in 1905, as is clearly shown by the language of the statute authorizing the purchase.

Respectfully submitted,

The Texas Historical Landmarks Association.

We, the undersigned, fully endorse the sentiments above expressed and join in the plea that the main building of the Alamo Fortress be repaired and restored.

Accompanying the above was a copy of a bill endorsed by a number of the Daughters of the Republic, and a number of telegrams from different parts of the State relating to the same subject matter.

THIRTEENTH DAY.

Senate Chamber,
Austin, Texas,

Thursday, January 30, 1913.

The Senate met pursuant to adjournment and was called to order by Lieutenant Governor Will H. Mayes.

Roll call, a quorum was present, the following Senators answering to their names:

Astin.	Murray.
Bailey.	Paulus.
Brelsford.	Real.
Carter.	Taylor.
Collins.	Terrell.
Conner.	Townsend.
Darwin.	Vaughan.
Greer.	Warren.
Hudspeth.	Watson.
Johnson.	Weinert.
Lattimore.	Westbrook.
McGregor.	Willacy.
McNealus.	

Absent.

Cowell.	Nugent.
Gibson.	Wiley.
Kauffman.	

Absent—Excused.

Morrow.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday the same was dispensed with on motion of Senator Westbrook.

(See Appendix for petitions and memorials and standing committee reports.)

EXCUSED.

On account of important business:

Senator Nugent for today and balance of this week, on motion of Senator Collins.

BILL RE-REFERRED.

Senator Warren here stated that in his motion on yesterday, to re-refer certain Senate bills, he made the mistake in the number of one of the bills, and that Senate bill No. 165, was desired to be re-referred instead of No. 168, and moved that Senate bill No. 165 be re-referred in lieu of No. 168.

The motion prevailed.

ADDITION TO COMMITTEE ON ASYLUMS.

Senator Warren moved that Senator Hudspeth be added to the Committee on State Asylums.

The motion prevailed.

BILLS AND RESOLUTIONS.

By Senator Hudspeth:

Senate bill No. 194, A bill to be entitled "An Act to provide for the joint investigation by the State of Texas and the Government of the United States of the water resources of the State of Texas, their utilization for the purpose of irrigation, and the making of appropriation for the expenses of such investigation."

Read first time and referred to Committee on Mining and Irrigation.